United States Court of Appeals for the Second Circuit



APPELLANT'S APPENDIX

74-2388

In The

United States Court of Appeals

For The Second Circuit

RAYMOND E. KARLINSKY, HOWARD JACOBSON, HARRY M. HATCHER and HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC., on behalf of themselves and all others engaged in the business of owning, training and racing thoroughbred horses in the United States, who are similarly situated,

Plaintiffs-Appellants.

- against -

THE NEW YORK RACING ASSOCIATION, INC., JOCKEY CLUB, JOHN C. CLARK, JACK J. DREYFUS, JR., JOHN G. GALBREATH, FRANK M. BASIL, G.H. BOSTWICK, JOHN W. HANES, FRANCIS KERMAN, ROBERT J. KLEBERG, JR., JOHN A. MORRIS, PERRY R. PEASE, OGDEN PHIPPS, JOHN M. SCHIFF, ALFRED G. VANDERBILT, JOSEPH WALKER, JR., AND JOHN H. WHITNEY,

Defendants-Appellees.

On Appeal from a Judgment of the United States District Court, Southern District of New York.

APPELLANTS' APPENDIX

Volume II, pp. 301a - End

JESSE MOSS

Attorney for Plaintiffs-Appellants
743 Fifth Avenue
New York, New York 10022
752-0740

ONLY COPY AVAILABLE

(7856

LUTZ APPELLATE PRINTERS, INC Law and Financial Printing

South River, N. J. (201) 257-6850

New York, N. Y. (212) 565-6377 Philadelphia, Pa. (215) 563-5587

Washington, D. C. (202) 783-7288

TABLE OF CONTENTS

	Page
Docket Entries	1a
Amended Complaint (Filed April 10, 1970) .	7a
Answer to Amended Complaint (Filed May 1, 1970)	332
Notice of Motion (Filed March 6, 1974)	39a
Affidavit of Jesse Moss in Support of Motion	41a
Affidavit of Eugene Jacobs in Support	61a
Order Denying Class Action Application (Filed May 2, 1974)	69a
Transcript of Proceedings Before Knapp, J. Dated July 8, 9, 10, 15, 1974	72a
Order and Judgment (Filed September 16, 1974)	531a
Plaintiff's Exhibit 24 — Deposition of Defendant Hanes	532a
Plaintiff's Exhibit 25 — Stall Assignments	75a
Plaintiff's Exhibit 26 — Schedule of Ratio	76a

Contents

	Page
Plaintiff's Exhibit 27 — Schedule of Num- ber of Horses Starting and Number of	
Starts	
Plaintiff's Exhibit 28 - Stall Assignments.	578a
Defendants' Exhibit E - 1972 HBPA Purse Statistics	579a
Defendants' Exhibit F 1971 HBPA Purse Statistics	580a
Defendants' Exhibit G - 1970 HBPA Purse Statistics	581a
Defendants' Exhibit H — 1969 HBPA Purse Statistics	582a
Defendants' Exhibit J — 1968 HBPA Purse Statistics	583a
Defendants' Exhibit K — 1967 HBPA Purse Statistics	584a
Defendants' Exhibit M - 1965 HBPA Purse Statistics	585a
Defendants' Exhibit N - Percentage Stakes to Total Purses - 20 Major Tracks,	
1965-1972 (8 pages)	586a

Contents

		Page
Defendants' Exhibit P - NYRA Percentage of Purses - U.S. and Eastern Seaboar 1965-1972	d.	595a
Witnesses		
Nathaniel J. Hyland:		
Direct		798
Cross		1428
Redirect		169a
Frank M. Basil:		
Direct		188a
	Ĭ	
Patrick W. O'Brien:		
Direct		211a
Cross		 259a
Redirect		265a
Alfred G. Vanderbilt:		
Direct		284a
Cross		310a
Redirect		316a
Ogden Phipps:		
Direct		329a
Cross		336a
Redirect		341a

Contents

Kenneth No	0	.1																	
Direct .	٠,		٠.	••															3440
Cross .	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	352a
Redirect																			
Recross																			
Recross	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	4018
John C. Lav	N	re	nc	e:															
Direct .																			369a
Cross .																			384a
Redirect																			391a
Recross																			· Sa
Sue Caplan:																			
Direct	•																		400a
Cross .	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•		401a
Raymond E	. :	K	ar	liı	ns	ky	:												
Direct																			415a
Cross																			430a
Redirect																			437a
Recross																			442a
Abraham F	ri	lec	in	na	n:														
Direct																			470a
Cross																			490a
																			512a
Recross																			513a
						333				0.677			SATA S	100	13 A B		Blood !	1 17/2	A STATE OF THE STA

1	wctb Vanderbilt - direct 227
2	A Well, I am sure that some people feel more strongl
3	about that than others and some people don't feel that way.
4	Q There is a difference.
5	A But I think the majority of people let me
6	qualify this. This desire for distance racing is more for
7	the public than it is for the horses.
8	Q You don't think that there are some horsemen that
9	prefer longer distances?
10	A Well, sure there are; some.
11	Q They would not be interested in the location of
12	the stand; they would be interested in the way their horses
13	would perform, is that so?
14	A I don't know.
15	Q Would you expect that the horsemen would be
16	influenced by that?
17	THE COURT: Suppose a horseman had a horse that
18	ran a mile and a half better than any other distance, he would
19	want all races to run a mile and a half?
20	THE WITNESS: Absolutely. But this is based on the
21	man who has the horse rather than any other philosophy.
22	THE COURT: Right.
23	Q To be more specific, do you remember testifying in
24	a case in the Supreme Court, in which the HBPA was the
25	plaintiff and the NYRA the defendant?

	302 a
1	Wctb Vanderbilt - direct 228
2	THE COURT: Which Supreme Court is this?
3	MR. MOSS: New York County.
4	Q A few months ago?
5	A Yes.
6	Q Do you remember at that time any discussion
7	MR. HYDE: Which page?
. 8	MR. MOSS: I beg your pardon. I am going to start
9	in a minute at 357.
10	Q a discussion in which I called your attention
11	to Mr. Morris' testimony?
12	A I don't recall it just from that. Do you want to
13	refresh me on what it was?
14	Ω Let me ask you whether these questions and these
15	answers refresh your recollection.
16	"Question: Now I want to come back, you know, to
17	Mr. John Morris.
18	"Answer: Yes, sure."
19	MR. HYDE: What page?
20	MR. MOSS: 357.
21	MR. HYDE: All right.
22	Q "Question: Assuming that he testified in this
23	case, his examination is in evidence instead by stipulation,
24	I want to ask you whether you agree with this."
25	I asked him a question.
NAME OF THE OWNER, NAME OF THE O	

1

3

4

5

6

7

8.

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

"'Do you whink it would be to the advantage of people who own stake horses to have more grass races?

> "'Answer: Again, that depends on the horse' --"Answer: Sorry. Who is this --

"Question: 'Answer: Again that depends on the horses. You have horses for courses and courses for horses. If you have good grass horses in your stable you want to race on grass. If you have horses that don't run well on grass, then you want dirt races. That's human nature."

Question to you, not to Mr. forris now:

"Question: Do you agree with that statement of the reasons why a horseman would want to have grass races or dirt races?"

And there was an objection which was overruled.

"Answer: I am sorry, I must be dense. You mean do I agree if you have grass horses you'd like to have a lot of grass races?

"Question: You'd be more inclined to favor more grass races, and if your horses were better on dirt you'd be more inclined to want more dirt races. Let me ask you -before the objection -- that's human nature.

"Answer: Yes."

Is that so? Did you make those answers?

A Yes.

1	wctb Vanderbilt - direct 230
2	Q That would not only apply to grass and dirt, that
3	would apply to whether or not you had a distance horse or a
4	sprint horse as well, would it not?
5	A Yes.
6	Q I think you nodded your head.
7	A Yes.
8	Q The Racing Secretary customarily presents a program
9	to the board of trustees every year, is that correct?
10	A The Racing Secretary presents the proposed stake
11	schedule to the board of trustees.
12	Q Right. I was coming to that. You anticipated me.
13	A Right.
14	Q What happens to the overnight schedule?
15	A The overnight schedule is made up from generally
16	in two weekly periods as the season progresses.
17	Q And the board of trustees does not concern itself
18	with that?
19	A No. It does not see that in advance or anything
20	like that.
21	Q Right. And the amount of money that goes to
22	overnights is the amount that is left over after the stake
23	schedule is approved, is that correct?
24	A That's correct.
25	Among the things discussed when the stake schedule

are more Jockey Club members racing at Saratoga than any other

24

1	wctb	Vanderbilt - direct	232
9	meeting	in the United States?	
3	A	No, I think there are probably more Jocke	ey Club
4	members	show up at one time or another there during	August.
5	Q	You van horsemen free of charge between I	Belmont
6	and Aque	educt, do you not, when you are racing in New	York?
7	A	Yes.	
8	Q	In other words, they can be stabled at es	ther track
9	and you	van them to the other in order to race?	
10	Α	Yes.	
11	Q	And that is at no charge to the horsemen	, is that
12	right?		
13	A	I think that's right.	
14	Q	Do you do that for a horseman who wants	to race at
15	Saratog	a, do you pay any of their expenses to go up	there?
16	A	No.	
17	Q	Did there come a time in 1971 when you ha	ad a
18	convers	ation with Mr. Trotter about extra stalls at	Saratoga
19	for Mr.	Phipps?	
20	A	Yes.	
21	Q	Would you tell us about that situation,	please.
22	A	As I recall it, Mr. Phipps either came t	o me himself
23	or some	body told me that he had not gotten as many	stalls as
24	he had	asked for.	

THE COURT: Mr. Phipps was the President?

THE WITNESS: Mr. Phipps was the Chairman of the
Jockey Club. And I went to the stall committee, which we then
had, and found that Mr. Phipps' trainer had applied for a
certain number of stalls, he had been allocated a number of
stalls that he had asked for, and then Mr. Phipps had decided
he wanted more stalls. At that time, however, the other
stalls had been given out and Mr. Phipps did not, and quite
rightly, get the additional stalls.

- Q You reported that to Mr. Phipps, is that right?
- A I believe so.
- Q That Mr. Trotter had said in effect, "I have no other stalls to give him, I cannot give him any more stalls at Saratoga"?
 - A Yes, I think so.
- O Mr. Phipps, in addition to being a member of the Jockey Club, Chairman of the Board, I think you said, of the Jockey Club, is a member of the board of trustees of the New York Racing Association?
 - A Yes.
- Q Was it a few months after this incident that Mr. Trotter was replaced and let go as Racing Secretary?
 - A Yes.
- Q Was that discussed at a meeting of the board of trustees?

4

5 6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

THE COURT: Which?

I beg your pardon, board of trustees of the New York Racing Association.

THE COURT: What was discussed? The fact that it was two months later or the fact he was being discharged or what?

The fact he was being discharged, changed.

I believe what happened is that the board appointed his successor. Mr. Trotter finished the year out, which he had -- whatever the year was, '71 or '72 -- but that when the application for -- when we made up the list of the new officials, at that time he was replaced.

THE COURT: Technically he was not discharged, his term just ran out?

THE WITNESS: Technically he wasn't discharged.

THE COURT: But as a practical matter he anticipated he would have been and as a practical matter he was discharged?

THE WITNESS: That is right.

0 That is, at a meeting of the board it was determined that the following year Mr. Trotter would no longer be with you, and that Mr. Noe would come in.

A Yes.

0 Is that correct?

1	wctb	Vanderbilt - direct	235
2	A	That is correct.	
3	Q	And that meeting took place in November, did	it,
4	of 1971?		
5	A	I don't know if it was November or December.	It
6	would have	been late in the fall.	
7	Q	Was Mr. Phipps present and voting at that mee	ting
8	about the	replacement of Mr. Trotter?	
9	λ	I don't know. I assume he was. The minutes	would
10	show. He	very likely was.	
11	Q	Neither Mr. Phipps nor any other trustee was	ever
12	disqualifi	ed from voting on a subject like that, is that	* 1
13	right?		
14	A	No.	
15	Q	So that if he were present at that meeting he	would
16	have voted	, is that correct?	
17	A	That's correct.	
18		THE COURT: Did he participate in the meeting	, take
19	any positi	on with respect to Mr. Trotter as far as you	
20	remember?		
21		THE WITNESS: As I recall, it was a unanimous	
22	decision t	hat Mr. Noe come in.	
23		THE COURT: On whose recommendation?	
24		THE WITNESS: Mine.	
25	Q	I am sorry, but I did not hear that last answ	er.

1	wctb	Vanderbilt - direct - cross 236
2.	A	On my recommendation the board voted for it.
3	Q	Was it unanimous?
4	A	I believe, yes.
5	Q	So that Mr. Phipps would have voted for it too?
6	A	Yes.
7		MR. MOSS: I have no other questions, your Honor.
8	CROSS-EXAM	INATION
9	BY MR. HYD	E:
10	Q	Mr. Vanderbilt, do you presently race horses?
11	Α	Yes.
12	Q	How many race horses do you presently have?
13	A	I have about 25, between 25 and 30, of which about
14	20 are at	Belmont now.
15	Q	Where are the remainder?
16	A	The remainder are at my farm in Maryland.
17	Q	Do you customarily race horses in states other than
18	New York?	
19	A	I do.
20	Q	Could you tell us where you race horses in addition
21	to New York	k.
22	A	I race Maryland, I ran a horse in Chicago two weeks
23	ago, in Per	nnsylvania, New Jersey, Florida last winter,
24	California	the winter before. Pretty much all around.
25	0	Delaware too?

Well, are some of your horses distance horses?

Yes, some are distance horses, primarily the grass horses.

24

1	wctb Vanderbilt - cross 238
2	Q And the other horses?
3	A The other horses are sprinters, right.
4	Q I think you said some of your horses are of stake
5	caliber. I take it that means that the remaining horses are
6	A The remaining horses are not or have not yet
7	convinced me that they are.
8	Q So they are entered in overnight races?
9	A They are in overnight races, maiden races and
10	claiming races.
11	Q Would you say that your stable is more or less
12	typical of members of the Jockey Club or trustees of the New
13	York Racing Association?
14	A I don't think there is a typical stable. They are
15	so different. Even among your Jockey Club members you have
16	got stables like Dreyfus, who has a very large stable of
17	horses of all kinds, and you have John Morris, who has four
18	or five horses. And you have a number of members of the
9	Jockey Club who don't race at all, have breeding stock. I
0	don't know what the typical stable is.
1	
2	The same of any stable of sockey class owner
3	who has, for example, nothing but stake horses?
	A I am not aware of anybody who has nothing but
1	stake horses.

Are you aware of any Jockey Club member who has

25

Q

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

nothing but distance horses?

A No, I am not. I don't know about John Morris.

Somebody who has a four-horse stable, they may be all

distance or all sprint, but anybody who has more than ten or
a dozen horses has got horses of all kinds.

- Q And that would be true of horses that race best on the turf and horses that race best on the dirt?
 - A Yes.
- Q In other words, if there is a typical stable, it consists of all kinds of horses?
- A That is correct.

MR. MOSS: I object to that question and move to strike the answer. The testimony has been that there is no such thing as a typical stable, followed by if there is a typical stable, basing a question on it.

THE COURT: Race horses being sui generis, I will allow the question.

- Q Mr. Vanderbilt, have any of your horses ever been disqualified by the stewards of the New York Racing Association?
 - A Yes.
 - Q Can you tell us how often that has happened.
- A No. But it has happened, and more than just a couple of times.

	314a
1	wctb Vanderbilt - cross 240
2	O It is not an isolated event?
3	A No, it is not.
4	THE COURT: I take it that does not make you happy
5	when it happens?
6	THE WITNESS: No, it adds little to my day.
7	Q Have you ever objected to a steward's reappointment
8	in the succeeding year because he disqualified a horse of
9	yours?
10	A Oh, no.
11	THE COURT: Have you ever heard an objection on
12	that ground by any trustee?
13	THE WITNESS: No.
14	O Incidentally, in this meeting where Mr. Noe was
15	appointed to serve in lieu of Mr. Trotter, was there any
16	discussion whatever with respect to any action by Mr. Trotter
17	taken by him with respect to a particular trustee or trustees
18	as a whole?
19	A No.
20	Q Or Jockey Club member?
21	A No.
22	Q When it comes to the vanning of horses, I think you
23	testified that the New York Racing Association vans horses

back and forth between Aqueduct and Belmont without charge.

Can you tell us why that is.

-25

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

A Well, there are not enough stalls at either track
to take care of all the horses and the people who want them.
And while you are racing at the downstate tracks, when we are
racing at Belmont we van the horses over from Aqueduct to
compete in the races there, and vice versa. Saratoga, on the
other hand the horses that race are stabled there, and once
they are there, there is no day-to-day vanning problem.

THE COURT: You mean it would be impractical to van them from Aqueduct to there and vice versa?

THE WITNESS: It would.

Q Is this practice of vanning horses between Aqueduct and Belmont free of charge applicable to all horsemen whether they be members of the Jockey Club or trustees of the NYRA or not?

A Yes.

On the other hand, is the requirement that they pay their own way the same regardless of who they are?

A Yes.

And if a horseman decides to race a horse in New Jersey or Maryland, does he have to pay his own expense in going down there?

A Yes.

Q Mr. Vanderbilt, are there presently members of the board of trustees of the New York Racing Association who are

1	wctb Vanderbilt - cross - redirect 242
2	not members of the Jockey Club?
3	A Yes.
4	Q Could you tell us who they are, how many there are.
5	A I believe there are five. There is Robert Milano,
6	Mr. Yunich, Ellinghaus, Waite. One other.
7	Q Mr. Pfeiffer?
8	A Mr. Pfeiffer.
9	Q Do these gentlemen race horses?
10	A No, they do not. These persons have no background
11	in racing.
12	THE COURT: What is their interest in being trustees
13	THE WITNESS: I guess it's a kind of a public-
14	spiritedness. We went to them because we felt that we needed
15	outside business acumen in our problems that we could not get
16	just from within those people who were racing horses, and they
17	have been very helpful.
18	MR. HYDE: I have no further questions.
19	REDIRECT EXAMINATION
20	BY MR. MOSS:
21	O You first began to have some difficulties with the
22	HBPA in 1969, did you not, or was there
23	MR. HYDE: Your Honor, I object to the question on
24	the ground that it goes beyond the scope of the cross-
25	examination. Here we are going into a whole new area.

FOLLY WARE NEW YORK NY. CO 7-4580

THE COURT: December of '70.

Q So that a man in that case is not going from one NYRA track to another?

24

A No.

25

You testified with respect to vanning from Aqueduct Q

1	wctb Vanderbilt - redirect 245
2	to Belmont you did it equally for members and nonmembers both?
3	A Yes.
4	Q And that with respect to not vanning between New
5	York and Saratoga you did it equally between members and
6	nonmembers both?
7	A Yes.
8	Q Now I put to you a quotation from Emile Zola, who
9	said that the laws of France were very just, they permitted
10	the poor and the rich equally to sleep under the bridges at
11	night.
12	THE COURT: They didn't permit. You said
13	"permitted."
14	MR. MOSS: The laws of France permitted the poor
15	and rich equally to sleep under the bridges at night.
16	THE COURT: No. They prohibit. Zola said they
17	prohibited.
18	MR. MOSS: I think "allowed."
19	Q In any event, take the quotation either way, do you
20	think that is the philosophy behind the equality of vanning
21	which you just described on cross-examination?
22	THE COURT: Excluded.
23	Q You said that this year you had to send all of you
21	2-year-olds back home because they did not develop.

No, because they bucked their shins, and so I sent

1	wctb	Vanderbilt - redirect . 246
2	them home	and will bring them back later.
3	Q	Where did you send them home from?
4	A	From Belmont.
5	Q	You had had them at Belmont?
6	А	Right.
7	Q	For how long?
8	A	Oh, varying periods of time.
9	Q	About?
10	A	A month, two months.
11	Q	And had they raced in that period of time?
12	. У	Three months. I beg your pardon?
13	0	Had they raced during that period of time?
14	A	Some did, a couple of them did.
15	Q	And some did not.
16	A	Some not.
17	Q	So during that period of time some of your horses
18	were stab	led at Belmont for a month or possibly two months who
19	did not re	ace during that period of time at all, is that
20	correct?	
21	Α	That's correct.
72	O	Is that correct?
23	A	That's correct.
24		MR. MOSS: Your Honor, I just forgot to raise
25	something	on my original examination, which I would like to go

1	wctb Vanderbilt - redirect 247
2	into now, if you please.
3	THE COURT: Yes.
4	Q Did there come a time when you had some dealings
5	with the Jockeys Guild with respect to an increase in the
6	jockeys' fees?
7	A You are speaking of me, meaning the NYRA?
8	Q Yes.
9	A Yes.
10	THE COURT: Were you personally involved in that?
11	THE WITNESS: I think I sat no, I don't think I
12	was. I was not Chairman then.
13	Q Were you at any meeting?
14	A I don't remember. I may have been at a couple of
15	the discussions. I don't remember.
16	Q Were you ever at a discussion at which the HBPA or
17	a representative of the HBPA was present, on that subject?
18	A I think I was only at informal meetings. It seems
19	to me that there was some meeting that Narud was at, but
20	whether he was dealing formally for the HBPA or not I have
21	no recollection.
22	Ω Narud. That was a name that was mentioned
23	yesterday.
24	MR. MOSS: I have no other questions.

THE COURT: Tell me, when you had your 2-year-olds

there, that were not racing --

THE WITNESS: Yes, sir.

THE COURT: -- is there a shortage of stalls that prevents people from having horses there that want to race?

other words, I bring my 2-year-olds up because they are getting ready to race. I have trained them as much as I can at the farm, I have to bring them to the track to go on and get them schooled out of the starting gate and so forth. In the course of doing that, they develop something called buck shins, which is a common complaint that young horses have.

And it is not a serious thing but it stops a horse from training. You have to stop and give him a couple of months and get it over. So as they do this, then I send them back to the farm and bring up the ones, a couple of more from the farm that are ready to race. And this is a universal thing.

This just happens to horses.

THE COURT: The contention is made in this action that you are having horses there that were not racing for one reason or another, thereby preventing people who wanted to race from having horses there.

THE WITNESS: But all the horses that I have there, those people also will have horses there that aren't racing.

I mean, this is a -- something that cuts across all stables.

Jockey Club members?

THE COURT: Is there any greater percentage or do you know is there any greater percentage of Jockey Club members who have horses there that are not racing than non-

THE WITNESS: I wouldn't know, but I would doubt it.

It is very much more economical for me, though I am a Jockey

Club member, if a horse isn't ready to run, I don't want him

at the race track, because he costs me \$25 or \$30 a day at the

race track and he costs me about \$8 or \$10 a day at the farm.

Q It has been testified here that some of the more affluent horsemen are the ones who tend to have the most 2-year-olds, because they breed them. Is that correct, a correct statement?

- A Let me make sure I have got what you mean again.
- Q An affluent horseman and a horseman who does some breeding besides racing horses is more apt to have a substantial number of 2-year-olds to bring to the races than others; is that correct?
- A Oh, I don't know, it might correct, it might be as a general rule, but I don't know.
 - Q There are exceptions?
- A There are an awful lot of 2-year-olds that are not raced by their breeders, but are bought in sales by people who are not breeders.

1	wctb	Vanderbilt - redirect	250
2	Q	That is right. Let me give you an example.	
3	Dreyfus.	A breeder like that you said Dreyfus had a	large
4	stable.		
5	A	Yes.	
6	Q	And he has a fairly large breeding farm too?	
7	A	Yes.	
8	Q	He breeds his own horses to race, is that cor	rect?
9	Α	Yes. He also buys.	
10	Q	Yes. But substantially he breeds his own rac	е
11	horses.		
12	A	Yes.	
13	Q	Would a man like that come up with more 2-year	r-olds
14	at the tra	ck, as a rule, than an ordinary horseman who d	id
15	not engage	in that kind of a breeding operation?	
16	A	Yes.	
17	Q	You said that you brought your horses up beca	use
18	they neede	ed some schooling at the track, starting gates	and
19	stuff of t	hat kind?	
20	Α	Yes.	
21	Q	Is that correct?	
22	A	Yes.	
23	Ω	Do you consider that a proper use of stalls,	to
24	school or	train horses at the track?	
25	A	Yes. It has to be done by all horses before	they

2 | race.

1

3

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Q For a month or two?

A Generally take about that long. Maybe not that. Some will be quicker, some will be longer.

of but live for one la se in one of white white is in it is that the fall in the

Q With respect to ordinary horsemen, is there not a rule of thumb that you are not using your stall, you are not starting enough horses, I think Mr. Noe refers to it as participation, that you are not participating enough and you are not going to get these stalls unless you participate in your use of them?

A I am sorry, I don't get what the question was.

Isn't that a requirement of the track, that there is either a criticism or a withdrawal of stalls from a trainer who does not use those stalls for horses who participate in the racing program?

A I think that if there was a stable that came in and took up a lot of stalls and did not run what was considered a sufficient number of horses, he would not get as many stalls in the future.

- Q And if he overdid it, he might not get any?
- A Possibly.

MR. MOSS: I have no other questions.

THE COURT: Why don't we take a short break.

MR. HYDE: Do you have any other witnesses?

some water for the specific to get in stand of the standard of the standard

2

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

MR. MOSS: I thought we were going to have Phipps and Mr. Vanderbilt and Noe today. In what order I will leave 3 up to you, but those are the three I mentioned to you yesterday evening when we left.

MR. HYDE: Mr. Phipps is on his way down now. He just put in a call. But I assumed that you were going to take the morning with Mr. Vanderbilt.

MR. MOSS: I am finished with him now. As a matter of fact, I will say this to your Honor: When I estimated the time of this trial, and possibly when Mr. Hyde did too, we were guided by what happened at a previous one. I would say that examinations, possibly because there was a previous trial, have been substantially shorter than I anticipated, which is why we are not taking as much time with these witnesses. For instance, each of the witnesses we had yesterday -- we disposed of three witnesses -- took at least two full days to dispose of the last time. But if Mr. Phipps and Mr. Noe are available today and then I have another witness I can put on, I think we will certainly use today and tomorrow.

THE COURT: No witnesses available now at this point?

MR. HYDE: That is correct, your Honor.

THE COURT: Are you through with Mr. Vanderbilt?

24

recess.

25

MR. MOSS: As a matter of fact, if your Honor

THE COURT: Why don't we take a couple of minutes'

XX

wctb

please, with respect to Mr. Hanes, I would suggest this: I consider that practically all of Mr. Hanes' deposition is important enough for me to read. I know that your Honor has expressed a view, which I happen to feel the same way about, that just reading a thing like that is a difficult thing. I could put it into evidence if there is no objection to that and say, "Here it is," and make it part of the record for your Honor to read when he reads the record in this case.

THE COURT: How long is it?

MR. MOSS: It is not a very long one. Let me look,
I will tell you the number of pages in just a minute.

I offer this in evidence now.

THE COURT: I take it there is no objection?

MR. HYDE: No objection.

(Plaintiffs' Exhibit 24 was received in evidence.)

MR. HYDE: Is that a signed and corrected copy?

THE COURT: It is a conformed copy.

MR. MOSS: It is all right with me to use whichever one you want to use.

While we are waiting for that, your Honor, we used Plaintiffs' Exhibits 22 and 23 for identification yesterday on the examination of O'Brien. I would like to offer them in evidence at this time.

THE COURT: Any objection to 22 and 23?

Q

Are you a member of the board and Chairman of the

A That wasn't exactly what that committee -- I did appoint a committee, but it wasn't to form a racing association; it was to look into what could be done for the benefit of racing, because the chairman of the commission who was then Ashley Cole felt that something should be done,

23

24

Q He was elected. Can you give us the reason for

Q Is there a discussion about that stakes schedule?

A Yes.

23

24

25

Q Among the trustees?

A Yes.

	333a
1	Wctb Phipps - direct 259
2	Q I think you once stated, did you not, that that
3	discussion might go through a meeting or two?
4	A I believe that I stated that it did not take up
5	the whole of any one meeting, but it probably was discussed
6	at, say, two meetings, near the end of the year, and it might
7	also be revised for the second half of the year.
8	Q What did those revisions usually consist of?
9	A What would be the added money, the success of that
10	race over the last few years, whether it should be a change,
11	whether it should be run on the grass or on the dirt, whether
12	it should be lengthened, whether it should be a handicap or
13	whether it should be an allowance stake, or any.
14	Q That sort of thing?
15	A Yes.
16	THE COURT: What is an allowance stake?
17	THE WITNESS: Well, an allowance stake would be if
18	a horse had won so much money he would carry so much weight,
19	and if he's won more, he would carry more weight.
20	Q But, in addition to the allowance, the Racing
21	Secretary as the handicapper also has a certain discretion
22	with respect to weights, does he not?

23

24

25

Well, as far as an allowance race, once it is A written, which would be early in the year, that would stay as written. In the question of a handicap, of course, the Racing

25

please.

CROSS-EXAMINATION

BY MR. HYDE:

about Mr. Ashley Cole's request of the Jockey Club in 1953.

Could you tell us what Mr. Cole said in substance on that occasion and where that meeting was held and how it came about.

A It was held at the Jockey Club dinner, which was in Saratoga, and he quite often spoke at the dinner. And that was the form of his address there, that he felt that New York racing was facing hard times due to the fact that perhaps we had too many race tracks that were owned by separate ownership corporations and that it was hard for them to put up the purses, because they didn't have the earnings, and what could we suggest.

Q What was the physical state of the tracks in New York at that time?

A They needed a lot of renovating. In fact, Belmont
Park a few years afterwards was declared unsafe. They found
I don't know how much water in the roof, tons of water, that
made it dangerous.

THE COURT: So the whole thing could come down?

THE WITNESS: That was true. When Mr. Cole was talking he did not know that.

Q And I believe that Belmont Park was at that time in

2	1953 the newest of all the New York race tracks, was it not?
3	A I would think it probably was, yes.
4	Q And it was built, if I recall, around 1903?
5	A Yes.
6	Q Pursuant to this address that Commissioner Cole
7	gave, what did you do?
8	A I asked three people to form a committee and to
9	look into it, and they did a lot of work on it. They were
10	Christopher Chenery, Harry Guggenheim, and John W. Hanes.
11	Q Incidentally, Mr. Frank Basil testified here
12	yesterday. Do you recall what he did in connection with
13	plan?
14	A He was working for Mr. Chenery at that time, and
15	I don't know how much he did. What I was hearing more from
16	were the three members. But I am sure that Mr. Chenery called
17	on him for help because he relied on him.
18	O After this committee met, for how long do you
19	recall their meetings and consideration went on?
20	A I would think it was at least a year.
21	O Did they then
22	A Then had to get control of the stock, buy the stock
23	of all of the existing race tracks, and they also got a bill
24	through the legislature.
25	Ω But before they did that they came up with a report

that I had mentioned the fact that we didn't have stalls. I could have mentioned it. But that is my trainer's job, to get the stalls, and he does it with the people who would probably be -- Trotter, I think, was head of that committee

23

24

at that time. I would know that Mr. Vanderbilt would never get into that matter, and I am not going to get into the matter of the stalls either. So if my memory is faulty, I could have perhaps said that, but it was of no importance and made no impression on me.

THE COURT: Mr. Vanderbilt said that you mentioned to him the fact that you were unable to get some horse or horses in that you wanted in -- I think it was Saratoga.

MR. MOSS: Saratoga.

THE COURT: Saratoga.

THE WITNESS: That would -- if I said -- I don't recall it. But if I did say it, I could have said that my trainer wanted to get -- not a horse, probably more stalls for horses. But I certainly did not pursue it with him and I wasn't really taking it up with him.

of his duties. The form it took was that another man was appointed in his place.

THE WITNESS: I think he resigned, offered his resignation, but Mr. Vanderbilt would know that better because he didn't resign to me obviously.

THE COURT: I gather he may have resigned on the basis of "You can't fire me, I quit." But there was a decision to replace him?

1	wctb Phipps - redirect 267
2	THE WITNESS: That is correct.
3	THE COURT: Were you there at the meeting?
4	THE WITNESS: I was at the meeting, yes.
5	THE COURT: Do you remember taking part in that
6	discussion?
7	THE WITNESS: I don't remember, no.
8	THE COURT: I assume if you were there you voted
9	for Mr. Vanderbilt's proposal because he said it was unanimous.
10	THE WITNESS: Yes.
11	THE COURT: In voting for that proposal, were you
12	in any way affected as far as you can remember about your not
13	getting stalls?
14	THE WITNESS: I don't remember the question of the
15	stalls.
16	REDIRECT EXAMINATION
17	BY MR. MOSS:
18	Q If you don't remember it now, might you have
19	remembered it then?
20	A What was that?
21	Q Might you have remembered at that time that you
22	had asked for stalls?
23	A I have never asked for stalls.
24	Q Your trainer.
25	A Well, my trainer has to ask for stalls for every

longer than we have taken.

1	wctb 269
2	THE COURT: We can recess until 2 o'clock. You
3	have nothing to do for the next five minutes?
4	MR. MOSS: No. I have another witness after Mr. Noe
5	who probably we will finish with this afternoon.
6	MR. HYDE: May we ask who that witness is.
7	MR. MOSS: Jack Lawrence.
8	THE COURT: We will recess until 2 o'clock.
9	(Luncheon recess.)
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	

1	wctb Noe - direct 270
2	AFTERNOON SESSION
3	MR. MOSS: Mr. Noe, please.
4	KENNETH NOE, JR., called as a witness by the
5	plaintiffs, being first duly sworn, testified as follows:
6	DIRECT EXAMINATION
7	BY MR. MOSS:
8	O Mr. Noe, you are presently Racing Secretary for the
. 9	New York Racing Association?
10	A Yes, sir.
11	O How long have you been?
12	A 1972
13	MR. MOSS: Your Honor, Mr. Noe and I have done this
14	before, so I don't even have to finish my questions, you see.
15	Q Before that had you been engaged in racing
16	activities, Mr. Noe?
17	A Yes, sir.
18	Q For how long? Will you give us a description of
19	your career as a Racing Secretary and other positions which
20	you held.
21	A Well, I went to work as a clerk in an office in
22	1954 in Atlantic City, and since then I have worked in most
23	every capacity as a racing official.
24	THE COURT: What happened in Atlantic City, what

office were you in?

1	wctb Noe - direct 271
2	THE WITNESS: That was the racing department, sir.
3	I have been Racing Secretary, steward, patrol judge, placing
4	judge, paddock judge, director of racing for the State of
5	Florida as supervisor of racing.
6	THE COURT: Was that a state office in Florida?
7	THE WITNESS: Yes, sir.
8	THE COURT: Were you active as a Racing Secretary
9	in Florida?
10	THE WITNESS: Yes, sir.
11	Q At Hialeah?
12	A Yes, sir.
13	Q Is that a fairly large track as tracks go?
14	A We feel it is one of the major race tracks.
15	Q Subsequent to that, before coming to New York,
16	were you Racing Secretary in New Jersey?
17	A Garden State Park, yes, sir.
18	Q Garden State.
19	THE COURT: What job did you have when you took
20	this one?
21	THE WITNESS: I was Racing Secretary at Hialeah
22	and Garden State at that particular time.
23	THE COURT: And they don't coincide?
24	THE WITNESS: No, sir.

Does the quality of racing differ in different

1	wctb Noe - direct 272
2	sections of the country, Mr. Noe?
3	A Yes, sir.
4	Q Are there certain places which are known in
5	different areas to have a high quality of racing for that
6	area or perhaps for the United States?
7	A Yes, sir.
8	Q Would you name some of them, please.
9	A Well, New York, Florida, New Jersey, California,
10	I would say would be considered the four or five major states.
11	THE COURT: How about Kentucky?
12	THE WITNESS: Well, your Honor, outside of the day
13	before the Derby and the Derby, it's fairly minor league.
14	Ω Would you describe New York as being one of the
15	high quality racing oases?
16	Λ Yes, sir.
17	Q And have you expressed opinion that New York is
18	the best in the country?
19	A Well, I would like to think so, yes, sir.
20	Q You think so, in your opinion?
21	A I do, yes, sir.
22	Q By the best, I mean, of course, better than any
23	other racing area.
24	A Yes, sir. I am prejudiced.
25	Q It is to a certain extent a sui generis area, would

they have good races elsewhere but nowhere else is there the quantity of good races?

21

22

23

24

25

THE WITNESS: Well, at a particular given part of a year, such as, as I say, 40 days at Hialeah in the wintertime, where the horses are available, and at Santa Anita in the wintertime, where the horses are available, I would say

1	wctb	Noe - direct	274
2	they have	quality racing such as they have in New York.	
3	Q	But just for those periods.	
4	A	Yes, sir.	
5	Q	But, if I may repeat: New York is a distinct	ct area
6	on its own	n for year-around quality racing, is that cor	rect?
7	A	Yes, sir.	
8		THE COURT: I assume the one day of the Deri	by they
9	have qual	ity races in Kentucky?	
10		THE WITNESS: Yes, sir.	
11	Q	When you came to New York and looked over t	he
12	racing pr	ograms, did you decide at any point that ther	e were
13	too many	2-year-old races at Saratoga?	1
14	Λ	Yes, sir.	
15	Q	Is that your opinion, that up to the time y	ou came
16	there, th	here were too many 2-year-old races there?	
17	A	Well, to be honest with you, Mr. Moss, I ne	ver paid
18	too much	attention until I got to look at it when I go	t the
19	position.		
20	Q	And when you took the position, you came to	the
21	conclusio	on that there had been too many 2-year-old rac	es in
22	Saratoga	?	
23	A	Too many stakes, yes.	
24		THE COURT: What did you do about it?	

THE WITNESS: I changed it. I dropped a filly

stake and a colt stake because I didn't think young horses should be raced that hard at that particular time of the year.

Q You thought it was too early in the year for those races?

A Yes, sir. One reason also, prior to my coming to New York, and every Racing Secretary has his own philosophy as to how to be a Racing Secretary, they had run their -- they had started their 2-year-old racing the middle of March. I moved it till the middle of April. Therefore, I didn't feel that there would be enough quality--in other words, 2-year-olds you had broke their maiden and raced enough--to have the number of stakes they had at Saratoga.

Q You said you felt that Saratoga had too many stakes in 2-year-olds. Is one of the reasons for that that the 2-year-olds develop later?

A Well, Mr. Moss, what I felt when I came to New York in regards to that -- and I didn't only feel it for just New York--I felt if our 2-year-olds did not race as often as they had in the past previous years, that possibly we would have better 3-year-olds and possibly better old horses. And that was really the intention and that won't be proven probably for another year or two.

Q The theory, if I am correct, is this: that a 2-year-old is still sort of fragile and you can burn him up

1	wctb	Noe	- direct	276
2	when he is	2-year-old; is	that correct?	
3	A	That's correct	, yes, sir.	
4		THE COURT: Th	at is your theory?	
5		THE WITNESS:	That is my theory.	
6		THE COURT: An	d you say it is not proved	l yet?
7		THE WITNESS:	Pardon me?	
8		THE COURT: YO	u say it is not proved yes	?
9		THE WITNESS:	I would say in another con	uple of years
10	that I wil	know the outc	ome of what I started out	to do.
11	Q	Is that theory	of yours shared by other	people,
12	do you know	v?		
13	A	Well, to be ve	ry honest with you, I real	lly don't
14	know, but	think most of	the horsemen have been ha	appier with
15	it, or at	least I feel th	ey have. In fact, I almost	got the
16	blame for	the possibility	of starting out 2-year-of	ds later
17	and they m	ght have had t	o split the Derby, I was a	accused of
18	that.			
19	Q	But you believ	e most of the horsemen agr	ee with you?
20	A	I believe so,	yes, sir.	
21		THE COURT: Wh	o accused you of this?	
22		THE WITNESS:	A couple of my colleagues.	
23		THE COURT: Yo	u mean	
24		THE WITNESS:	Other Racing Secretaries.	
25	Q.	I presume that	a man who had a 2-year-ol	d and was

1	wctb Noe - direct 277
2	interested less in improving the breed than in earning some
3	quick money with the 2-year-old would disagree with you, is
4	that correct?
5	A Well, of course, Mr.Moss, there are some 2-year-old
6	as we know, that are bred for speed.
7	Q That is right.
8	A There are others who, naturally, the distance
9	races, the three-quarters, seven-eighths, and the distance
10	races go on in the fall of the year. Yes, someone who might
11	have a quick one possibly would disagree.
12	Q And your interest is in the improvement of the
13	breed over a period of years to not use the horses up too
14	early?
15	A Well, I think the 2-year-olds, yes; sir.
16	MR. MOSS: I have no other questions.
17	THE COURT: Tell me, when you came in and made
18	these changes, did you get any flak from the trustees?
9	THE WITNESS: Sir, I recommended, I believe it was,
20	39 changes in the stake program. I think they ran about 92
21	or 93 stakes, somewheres in that area. And I recommended 38
22	or 39 changes, and was able to they were approved.
23	THE COURT: They were all approved?
24	THE WITNESS: Yes, sir.

BY MR. MOSS:

Q Would you think that that might have been partly due to the fact that you were during a sort of honeymoon period when you did that?

A No, sir. I had a reason behind every change that I made and gave it, and I was in hopes, I hoped, that they took it feeling that I was qualified.

THE COURT: That is why you figured they hired you?
THE WITNESS: I guess so.

MR. MOSS: I have no other questions.

CROSS-EXAMINATION

BY MR. HYDE:

Mr. Noe, does a 2-year-old require a certain amount of, shall we call it, climatization at the track before he is prepared to race at the track?

A Well, I think a 2-year-old basically is just like a child. I think you have to educate him the same way. When they are broken the fall of the year, usually in the fall is when they are yearlings, they have to be broke just like a child has to be trained. And naturally with the surroundings of being around horses, more horses, yes, it's to their benefit. They even have trial races. Now they are beginning to have trial races prior to the race meetings. They just had trial races at Keenan this spring, where they probably run more 2-year-old races than any place in the country in the

spring of the year.

Q Are these 2-year-olds customarily brought to the New York tracks and kept there for a few weeks before they run their first race?

A Oh, certainly. We have probably, I grant probably 600 stalls to 2-year-olds.

- Q Are all of those 600 stalls granted to members of the Jockey Club or trustees of the New York Racing Association?
 - A No, sir, they are granted to trainers.
- Q Are those trainers members of the Horsemen's Benevolent and Protective Association in part?
 - A Yes, sir.
- Are there any members of the Horsemen's Benevolent and Protective Association who presently have 2-year-olds stabled at the tracks?
 - A Yes, sir, quite a few.
 - Q And have they in all cases run those horses yet?
- A No. They have the same problem that any other trainer or any other owner, but I deal with the trainers, so I know Mr. Jacobs, who is President of the HBPA, really, I think he started one 2-year-old. Because some of them are bucked, some of them are coughing, because we go through this kind of period. I can give you even two members of the directors of the HBPA, Al Scotti and Tommy Gullo, I think he

has six on the grounds and I think he told me they probably run on the fall, although he has run a couple of them, six or eight. But that happens not only — that happens to every trainer, it is one of those things. Sometimes they buck.

And if they pop a splint, which is an ailment, they are sent back to the farm or to a training center, because they want to have active horses in their stalls, because the cost is so prohibitive they have got to keep action horses.

Q Let me ask you this: Is your policy with respect to the bringing in of 2-year-olds the same with respect to Jockey Club members, trustees, and their trainers and other horsemen?

A Sir, I look at the trainer and know the caliber of horses that he carries. And I look at the owner's list the same as I would on anybody else's application, and it matters not to me. I allocate the stalls to the trainer, whether it be 2-year-olds, old horses or what they are.

I think you mentioned that Florida and California have racing comparable to New York racing at certain times of the year. Do other states, without regard to their entire racing program over the course of a whole season, put on races on a given day that are comparable to those put on in New York?

A Yes, sir.

24

25

1	wctb Noe - cross 281
2	Q Are there stake races put on in other tracks
3	throughout the United States which draw horses from New York
4	for those meetings?
5	A Yes, sir. Every week. We supply most of the horse
6	on the Eastern Seaboard to these other tracks.
7	Q The horses leave New York and they go elsewhere
8	to run?
9	A Yes, sir. Within the past month I say that we have
10	had four to five, and stakes, hundred-thousand-dollar stakes,
11	\$50,000 stakes, throughout the general area.
12	Ω Are horses customarily shipped from track to track
13	to compete at those tracks?
14	A Yes, sir.
15	Q When it comes to the stakes program, I believe you
16	testified that a program is submitted once a year with respect
17	to stake races, is that correct?
18	A Yes, sir.
19	Q Is a certain percentage of your total purse money
20	allocated to stake races?
21	A Well, a projection is given to me, a projection on
22	the mutuel handle and what OTB might produce. And then the

stake program is set with respect to your overnights. I am sure of this: The verbal agreement, and sometimes I believe it's written in some states, is 25 percent in stakes, 75

1	wctb	Noe - cross- redirect	282
2	percent in	overnights, and 2 percent leeway in your stake	•
3	program.	In other words, it could be 27 percent, 23, 24.	
4	That is th	e general agreement between the horsemen and	
5	management	throughout the country. I believe that ours,	sinc
6	I have bee	n in New York, has only been around 18, 19.	
7	Q	18, 19	
8	A	18 or 19 percent.	
9		THE COURT: For stakes?	
10		THE WITNESS: I think we are lower, yes, sir,	than
11	any place	in the country over a 260-some day period.	
12		THE COURT: How do you account for that?	
13		THE WITNESS: Because of the long season.	
14		MR. HYDE: I have no further questions.	
15	REDIRECT E		
16	BY MR. MOS	S:	
17	ð	In comparison to the length of the season would	.d
18	you say th	at the number of stakes run here is more or les	s
19	than anywh	ere else?	
20	Λ	Oh, yes, sir, with the length of our season, y	es,
21	sir.		
22	Q	We run more stakes proportionately in New York	?
23	A	Oh, well, 262 days, yes, sir.	
24	Q	And still more proportionately at Saratoga?	
25		THE COURT: He said proportionately.	

	Α .	Proportionately,	I	just	figured	on	a	yearly	basis,
so I	never	really looked at							

THE COURT: The question is: Taking the whole year into account, here, in a season, whatever it may be, into account from anywhere else, is the proportion of stakes to overnights higher in New York than elsewhere?

THE WITNESS: Are you talking about just Saratoga?

No, not Saratoga. Overall, including Saratoga, Belmont and Aqueduct.

A Do we have more stakes?

Q Is it about the national average, above it or below it?

THE COURT: In proportion to overnights.

A Well, I really -- we used to have 17, 18 stakes at Hialeah in a 40-day meeting, which only left us 22 of nonstake.

Q As compared to Saratoga which had 20 stakes in a 24-day meeting, is that correct?

A I believe there are 20 or 18 now, I am not exactly sure.

Q Yes.

A The one thing that I might interject in respect -and you got into Saratoga -- just recently the Secretary and
Treasurer of the NYRA, Mr. Fitzgerald, gave me a projection
for the remainder of the year on overnights, not stakes,

overnights. I believe it called for \$103,000 or \$104,000 daily, average, and overnights, through this summer Aqueduct meeting, I believe it was \$98,000 in overnights at Saratoga, and when we came back to Belmont it was about \$106,000 per day, \$108,000, I think, in the Aqueduct fall meeting. After looking at it, the President of the HBPA, Gene Jacobs, walked in. And I let him look at it. I said, "Gene, it cost the horsemen a lot more to go to Saratoga. What would you think if we just kind of balanced this out and made the overnights a little higher, because the rents are higher, the feeds probably a little bit higher, the costs of vanning." He thought it was a good idea, so that is what we are going to do, of Saratoga.

Q Mr. Noe, you said what was the daily payout at Saratoga?

A I think it was, the projection was \$98,000 -- I think around \$98,000, \$97,000 average.

Q A day.

A In overnights, yes.

Q At Aqueduct?

A Aqueduct, in the fall meeting?

Q Well, either, both.

A Well, I think for this particular summer meeting it would be around \$104,000, and then at Belmont in the fall

1	wctb	Noe - redirect	285
2	I believe i	was \$106,000, and I believe \$108,000 at Aq	ueduct
3		. That could be a thousand dollars either w	
4		so that forgetting stakes for the moment, the	
5		ourses for ordinary overnight races was lower	
6		in at Belmont and Aqueduct, is that correct?	
7		es, sir. Because it is based on the mutuel	
8		eight. I understand that.	
9.	A F	tight.	
10	Q 1	s it based on the mutuel handle?	
11	A A	11 your purses are based on the mutuel hand!	le.
12		f that is the case, then the mutuel handle a	
13		ld not support the purse structure at Aquedo	
14	could it?		
15	A P	ardon me?	
16	Q C	ould the mutuel handle at Saratoga support t	he
17		ts at Saratoga?	
18	A O	h, I think it is justifiable.	
19	Q I	did not ask you that. It is justifiable be	cause
20		ll three-track pot.	
21	A W	ell, the \$98,000 is based, yes, sir.	
22	O E	xactly.	
23	A A	re you speaking of the stake program?	
24		nat I am trying to say is this: It has been	said
05			

here that the purpose is to equalize payments at all three

1	wctb Noe - redirect 286
2	tracks. The fact of the matter is that the daily overnight
3	payments at Saratoga are substantially less than those at
4	Belmont and Aqueduct, whereas the stake payments are
5	proportionately much higher; is that not correct?
6	A That is correct.
7	Q You said that New York horses take trips to race
8	at other tracks, is that right?
9	A Yes, sir.
10	Q Those are principally the stake horses, are they?
11	A Yes, sir, principally.
12	O In other words, the overnights customarily stay
13	where they are?
14	A Most all the time, yes, sir.
15	Q And when there is a big stake race somewhere, some
16	of the stake horses will go out for a day or two for that
17	stake and then come back, is that correct?
18	A Yes, sir.
19	Q And then return to New York?
20	A Yes, sir.
21	Q New York pays the highest purses in the country,
22	I think, does it not?
23	A That is correct, yes, sir.
24	Q In that respect too it differs from other tracks?
25	A Yes, sir. We are lucky.

1	wctb	Noe - redirect 28	,
2	Q	No other areas.	
3	A	Yes.	
4	Q	With respect to the 2-year-olds, you said that	they
5	now have t	rial races to bring them around?	
6	A	They do at some tracks, yes, sir.	
7	Ω	That is pre-season, is it not?	
8	A	It is not before the track opens. They are doi:	ng
9	it at Holl	lywood Park now.	
10	Q	But not as the usual program?	
11	A	Oh, no, it's usually in the morning.	
12	Q	Separate training.	
13	A	Yes, sir.	
14	Q	I am not sure I heard this, because I may have	
15	missed it	and I may be incorrect. Did you say something	
16	about how	you wanted to have active horses in your stalls	
17	and the ma	an should not have too many horses around there;	
18	did you us	se the word "active"?	
19	A	Active, yes, sir.	
20	Q	Active horses in your stalls.	
21	λ	Yes, sir.	
22	Q	That is the most desirable thing, to have horse	:8
23	that will	race, isn't that so?	
24	A	If they are quality.	
25	Q	From your experience in racing over these years	, do

. 1	wctb Noe - redirect 288
2	you have an opinion as to whether or not members of the
3	Jockey Club are more apt to have (a) stake horses and (b) race
4	2-year-olds than non-Jockey Club members?
5	A I would say that they have had quality horses over
6	the years, yes, sir.
7	Q Including 2-year-olds?
8	A Including 2-year-olds. That is how they get the
9	quality horses.
10	Q Right. Oh, that is how they get the quality horses?
11	A Well, he has to be a 2-year-old sometime in his
12	career, whether he belongs to the Jockey Club or not.
13	THE COURT: They are not born at the age of 3.
14	THE WITNESS: Yes, sir.
15	Q They raise their own horses and bring them along,
16	is that correct?
17	A Not everybody does today, Mr. Moss.
18	Q No, not today. I know they don't today. The
19	price of hay and whatever, I assume they don't. But say from
20	1960 to 1970.
21	A 1960 to 1970. I would say a lot of them do. Yes,
22	they did.
23	MR. MOSS: I have no other questions.
24	MR. HYDE: No, I don't.

THE COURT: Tell me, you started this job which

3

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

2 you now have in 1972?

THE WITNESS: Yes, sir.

THE COURT: Who negotiated with you for the job on behalf of the association?

THE WITNESS: Well, what happened is, I always went to Saratoga for the summer sales for Garden State and Hialeah, because we ran two of the largest 2-year-old races in the country, the Gardenia and the Garden State. So I went there to solicit nominations for the following year, by the breeders, the owners. When I arrived, when I went to the back side, which is the barn area at Saratoga, and I had met Mr. Vanderbilt one time in my life, and he asked me if I would be interested in becoming Racing Secretary in New York. I told him that I had no intentions, I had never taken anybody's job, and Tommy Trotter, who had been here previous, him and I happened to work together when we were working in the office and on lesser jobs. He intimated to me that Mr. Trotter probably wouldn't be here regardless of whether I took the job or not. And that was the end of the conversation. That took about maybe two, three minutes.

I then heard from Mr. Vanderbilt after I was back in Miami at Hialeah, and he asked me when I was coming to New York. I told him I would be there probably in a week or ten days, because our fall meeting was ready to start in about

25 days at Garden State.

So when I got there he asked me to call him, which I did. I told him I was coming up to close our fall stake program. I came to New York. I saw him probably an hour each day. I think by him not knowing me and I did not know him, I think he really wanted to know how I felt about racing and what my procedures were. I just told him how I felt about it, I as a race tracker, I was a Racing Secretary, I was interested in thoroughbred racing, I always would be.

He asked me what I felt it would -- well, no, then
I think about two weeks later, or maybe a week later, I can't
remember exactly, he called and asked if I would come to
New York and see him, which I did. We discussed the position.

The actual, what the monetary value that he offered me, I did not feel that I could move my family from Florida to come to New York. I was a little leery of it anyway. And I thanked him very much and told him that I couldn't accept the position.

I went back to New Jersey, which we were racing at the time.

THE COURT: You mean the pay was not high enough to make it worthwhile for you?

THE WITNESS: That's right, the compensation, yes, sir. I wanted to bring part of my personnel with me, which

have been with me for quite a while. Mr. Krumpe and --

3 THE COURT: Who is Mr. Krumpe?

THE WITNESS: Mr. Krumpe at that time was the Vice-President in charge of operations. He said he would like to talk to me, that he understood there was some difficulty in regards to my negotiations with Mr. Vanderbilt. We met at -- I am sure he didn't want me to come to New York to be embarrassed and I certainly didn't want to come back to New York. We met at Exit 7 at a Holiday Inn, around 4:30, 5 o'clock one afternoon. I told him what I felt that I could come to New York for. And he said that he felt maybe they could work it out. I asked him for certain figures and things that I needed. He sent those to me.

We met one other time. And at no time did I have any conversation with anyone else. And sometime around the 10th, 12th of November, I had a call from Mr. Krumpe, Mr. Vanderbilt, they were on the extension. They said the trustees had agreed to what I had particularly wanted.

I went to Florida and they sent me a contract and I signed it.

THE COURT: As you mentioned, Mr. Trotter was the previous Racing Secretary, your predecessor.

THE WITNESS: Yes, sir.

THE COURT: Was there any discussion between you

THE COURT: And the trainers, as I understand it,

THE WITNESS: Yes, sir.

24

1	wctb Noe - redirect 293
2	sometimes train exclusively for Jockey Club members, sometime
3	exclusively for non-Jockey Club members, and sometimes across
4	the board?
5	THE WITNESS: That's true. There are not many
6	private jobs in racing any more. At most, three or four,
7	maybe five.
8	THE COURT: Most of the trainers
9	THE WITNESS: There are public stables.
10	THE COURT: They have public stables?
11	THE WITNESS: Yes, sir. They have three, four,
12	five, six patrons, some higher than that.
13	BY MR. MOSS:
14	Q The private trainer has gone out of style, so to
15	speak, is that right?
16	A More or less. There are just not that many private
17	jobs.
18	THE COURT: When did that happen?
19	THE WITNESS: Oh, I would say in the last five or
20	six years. They have been some of them that have passed away,
21	and that is probably
22	Q This conversation saying that you had had a
23	meeting and you were now in as Racing Secretary was around
24	the middle of November, was it?

Yes, sir.

25

A

	7008
1	wctb Noe - redirect 294
2	MR. MOSS: May I have the minutes of a board of
3	trustees' meeting for November 1971, please.
4	MR. HYDE: I don't believe we have them.
5	MR. MOSS: You furnished us with a copy.
6	MR. HYDE: Then you should have it.
7	MR. MOSS: We do not have it and I am asking you
8	whether you are denying that you have it.
9	MR. HYDE: I am denying that I have it in this
10	courtroom, and this is the first time I have heard this
11	request.
12	MR. MOSS: I ask it be furnished, your Honor.
13	THE COURT: If you have a copy, that is enough.
14	MR. MOSS: Our copy is missing, if your Honor
15	please.
16	THE COURT: You are going to finish today?
17	MR. MOSS: What are we going to finish today?
18	THE COURT: You told me so.
19	MR. MOSS: No, sir. I said that we had another
20	witness tomorrow morning.
21	THE COURT: All right, I am sorry. You can bring
22	the minutes if you have them.
23	MR. HYDE: We will try to, yes.
21	MR. MOSS: I have no other questions of Mr. Noe.

MR. HYDE: I have no questions.

1	wctb Lawrence - direct 295
2	(Witness excused.)
3	MR. MOSS: Mr. Lawrence, please.
4	JOHN C. LAWRENCE, called as a witness
5	by the plaintiffs, being first duly sworn, testified as
6	follows:
7	DIRECT EXAMINATION
8	BY MR. MOSS:
9	Q Mr. Lawrence, what is your occupation, please?
10	A I am an owner, a trainer and a breeder of
11	thoroughbred racing horses.
12	Q Will you give us your background, please, in that
13	business, Mr. Lawrence.
14	A My Dad was a horseman, he was an owner and trainer.
15	He was also a huntsman of fox hounds, a polo player and a
16	horse showman. I went to public school and then to military
17	academy
18	Q No, no, your background as a horseman.
19	A I am getting to that.
20	Q All right.
21	THE COURT: Where did your father live?
22	THE WITNESS: My father lived in Long Island.
23	THE COURT: Whereabouts?
24	THE WITNESS: St. James.

THE COURT: That is where I lived.

THE WITNESS: You did really?

3

1

THE COURT: I did once.

4 5

THE WITNESS: You probably know of him, then, or heard of him.

6

7

9

A After graduation from military academy I went to Cornell, graduated from college of architecture. While there I was captain of polo. When I got out of Cornell I went home and architects couldn't get a job, they were being paid \$15 a week as draftsmen. So I went back to what I knew best and that was horses.

11

10

THE COURT: When was this?

12 13

THE WITNESS: This was in 1937, '38. And I refereed polo games at Meadowbrook, announced polo games, and I bought and sold horses, then I got ahold of some thoroughbred horses.

15

14

16

17

18

19

Then the war came along. I spent four years in the war. In 1946 I was discharged, and I applied for a trainer's license at the Jockey Club. In 1946 I was licensed as a trainer. And I have been a licensed trainer since 1946.

20

21

Have you raced in New York, Mr. Lawrence?

22

I have raced every year in New York since I started training.

23

Have you owned horses which race in New York besides training them?

11		
11		

3

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

- A Yes.
- Q Either as a trainer or owner or both, how large a stable of horses did you customarily race?

A My stable would average about eight or nine horses. Sometimes I'd go as high as sixteen. Sometimes down to five or six. At the present time I have the smallest stable I ever had.

- Q Were you a director of the HBPA at any time?
- A Yes. I have been a director of the HBPA for many years, not successively, but over a period of fifteen years or so.
 - Q Would that include the period between 1960 and 1970?
 - A Yes.
- Q Are you aware of any arrangement between the HBPA and the NYRA which existed with respect to the collection of HBPA dues?
 - A Yes. I am quite familiar with it.
 - 0 Would you describe that to us, please.
- A At one time the NYRA had agreed with the HBPA to honor assignments by owners of 1 percent of purse moneys won.

 And that was across the board, first, second, third or fourth.

 These assignments were honored by the NYRA and this --
 - Q What do you mean by honored?
- A They removed that money.

approximation of the number of horsemen who were members of

the HBPA, the number of horsemen in New York?

24

1	wctb	Lawrence - direct	299
2	A	We had about a 90 percent average.	
3	Q	Of horsemen racing?	
4	Λ	Yes.	
5	Q	And by horsemen, you mean owners and trainers	3?
6	A	Owners and trainers, yes.	
7		THE COURT: 90 percent of the owners and train	iners?
8		THE WITNESS: Who were racing here.	
9		THE COURT: Who were racing here were members	of
10	your organ	ization?	
11		THE WITNESS: Yes, sir.	
12	Q	Mr. Lawrence, does the distance of a race have	e any
13	material e	ffect on the chances of a horse?	
14	A	Yes, certainly.	
15	Q	In what way, would you tell us, please.	
16	Λ	Well, you have your two types of horses. You	have
17	your sprint	ters and you have your stayers. Now, if you r	aced
18	over a dist	tance of ground, chances are that your stayer	and
19	your sprint	ter, if they are of comparable quality, will g	et up
20	and beat th	ne sprinter. Likewise if it is short, the spr	inter
21	has more ch	nance to win.	
22	_Q	Are there some people who believe in longer r	aces
23	as contrast	ted with those who believe in shorter ones?	
24	Λ	Yes, I think people have their preferences.	
25	Q	Have you ever heard that preference among hor	semen

	374a
1	wctb Lawrence - direct 300
2	related to the location of the grandstand?
3	A No, sir.
4	THE COURT: There has been testimony here that it
5	is a better show for the public if the race can start in one
6	of the
7	THE WITNESS: That is true. If the gate is right
8	in front of the grandstand, you see that action.
9	THE COURT: There has been testimony here that it is
10	therefore preferable to have a race long enough to permit that
11	to happen. Do you agree with that?
12	THE WITNESS: I don't think that is the predominant
13	factor in the race.
14	THE COURT: Some people do.
15	THE WITNESS: It may be an element to be taken into
16	account, but I don't think it is that important.
17	Q In other words, taken into account and considering
18	whether long-distance racing is preferable or not, you would
19	not take the location of the grandstand into account, is that
20	correct, sir; is that what you say?
21	A Yes, sir.
22	Q And is that
23	THE COURT. I About to

THE COURT: I thought you said you would take it into account but you did not think it was important. My understanding is that he said he would take it into account

24

1	wctb Lawrence - direct 301
2	but he did not think it was one of the more important aspects.
3	Is that what you say?
4	THE WITNESS: Yes. It is outweighed by other
5	factors.
6	Q But horsemen would not especially take that into
7	account, would they?
8	A No.
9	Q Is the view which you expressed, if you know, the
10	predominant opinion among horsemen?
11	A I think so.
12	Q You have been racing at the New York tracks for the
13	number of years you described. Does that include all three
14	New York tracks?
15	A Yes, it does.
16	Q With respect to the allocation of stalls, have you
17	ever been made aware of the relationship of the frequency with
18	which you race horses out of stalls to your probability of
19	your getting them?
20	A Yes.
21	Q Would you please describe that situation to us.
22	A Well, the Racing Secretary of course wants an
23	active stable, and if you fill stalls and are not in action
24	within what you might say a reasonable length of time, it is

only natural that he would want to put somebody in those

1	wctb Lawrence - direct 302
2	stalls that do have horses ready to run.
3	Q Will he comment to the average horseman about that
4	A Yes. That has been done.
5	Q Was that the practice of the New York tracks, say,
6	between 1960 and 1970?
7	A Jesse, I couldn't hear you when you were turning.
8	Q Was that the practice of the New York tracks
9	between 1960 and 1970?
10	A Yes.
11	Q Were there normally more horsemen asking for stalls
12	than there were stalls available for them?
13	A Yes.
14	Q Was that the reason for this handling of the stall
15	situation which you have just described?
16	A Jesse, that really
17	Q If I have not made it clear, I will try again.
18	Is the insistence upon active use of the stalls partly due to
19	the fact that stalls are in short supply?
20	MR. HYDE: Your Honor, I think this questioning
21	calls for the operation of the secretary's mind, which has
22	been testified to already.
23	THE COURT: I will take judicial notice that the
24	more people want the stalls, the more people want the stalls,
25	and therefore that the fellow who has got to give them out is

differences are.

3

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

2 A

Well, when the non-Jockey Club member applies for stalls and gets an assignment of stalls, he is directed -well, I say every one or every trainer who applies for stalls, he is directed to fill the stalls by a certain date.

MR. HYDE: Your Honor, I object unless we have the conversation. This would appear to be hearsay testimony on the witness' part. I would like to have the name of the person who said this, to whom he said it, when it was said.

THE COURT: Now he is just setting forth the general practice that every trainer whether he is a Jockey Club trainer or not is given certain directions.

MR. MOSS: We have had a great deal of testimony here by custom and usage, and I am pursuing that same sort of thing.

Q Will you go ahead.

THE COURT: Every trainer is told what? THE WITNESS: Well, every trainer, when he gets his stall assignment, also gets a little card in there that says, "These stalls are to be filled by such-and-such date," which is usually a week before racing begins, "or these stalls will revert to the association. " And if you can't fill the stalls, you are supposed to let the Racing Secretary know. It is a matter of courtesy as well as request on their part.

O Go ahead.

A Oh, well, so if you don't fill your stalls, then they are assigned to somebody else. But if you happen to be an influential stable or a trustee or a member of the Jockey Club, there doesn't seem to be much fuss made about it and the stalls remain empty until they do fill them.

THE COURT: This is a generality.

Q Have you observed what happened to stalls -THE COURT: Wait a minute. We cannot have
generalities. You will have to give specific instances.

THE WITNESS: Well, I have seen stables that remain empty until certain horses occupy them later in the season.

THE COURT: Give us names and dates.

THE WITNESS: Oh, the Phipps horses used to come in later, as the season progressed, and the Calumet Farm.

THE COURT: Who did this?

THE WITNESS: Calumet Farm.

THE COURT: When did this happen?

THE WITNESS: This happened over the years. This is general knowledge among the horsemen. In fact, we wait to see -- they are announced as they come in. Actually, so-and-so got in this morning, and so-and-so got in next week. So that they do not adhere to this get-in date. They come in more or less at their convenience.

Q Who are the Calumet Farm people?

1	wctb Lawrence - direct 306
2	A That used to be Mr. and Mrs. Warren Wright, and I
3	believe it is now Mrs. Markey.
4	· Q And the Wrights were members of the Jockey Club,
5	or Mr. Wright was?
6	A I believe Warren Wright was, yes.
7	Q Have you from your own personal observation over
8	a period of time noticed stalls that were kept vacant waiting
9	for these people to come in to them, these people being
10	Jockey Club members?
11	A Yes, I have.
12	Q Have you observed a comparable practice with
13	respect to horsemen who were not Jockey Club members?
14	A No.
15	Q You say you have raced at Saratoga; Mr. Lawrence?
16	A * Yes.
17	Q Can you point to any differences between the race
18	meeting at Saratoga and the meetings at Belmont and Aqueduct?
19	A Well, they are the same horses and they are the
20	same people, with a great number of people from around the
21	country, from Canada, come in for that meeting.
22	Q Are those people who race at Belmont and Aqueduct?
23	A Not ordinarily. They race in California and
4	Canada
5	Q But they come to Saratoga?

2	11		
~	11		
2	11		

4

5

6

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

A -- and Chicago. But they come to Saratoga in August. And they have a larger number of stake races there, during August, than they do at the other -- than they do at Belmont and Aqueduct. The 2-year-olds were very prominant in the entries. They ran numerous 2-year -- in fact, I ran in those races myself. That's about it.

Q There is a substantial number of Jockey Club people at Saratoga, more so than at Belmont and Aqueduct?

A Yes.

Q And do some of the Jockey Club people who don't customarily race in New York but who are members of the Jockey Club in other states come in for this meeting?

A They do.

Q The stake program that has been testified to is substantially greater proportionately at Saratoga than it is at Belmont and Aqueduct, is that correct?

A Yes.

Q So are the purse payments in relationship to the handle?

A Yes.

Q When they pay these purse payments at Saratoga, does it have any effect on the purse payments at Aqueduct and Belmont?

A Well, I would believe so. They can't get the

1	wctb Lawrence - direct 308
2	money out of the handle at Saratoga, so it has to come from
3	the two other tracks.
4	and the same of th
5	Belmont and Aqueduct is less.
6	A It's more.
7	Q Is that correct?
8	A Yes.
. 9	Q I mean percentagewise.
10	A Yes, percentage.
11	Q Saratoga is more percentagewise, and Aqueduct and
12	Belmont are less than the normal percentage; is that correct?
13	A Yes.
14	Q Yes. I just was not sure what I heard.
15	Has a pension plan been instituted at the New York
16	Association tracks comparatively recently, within the last
17	couple of years?
18	A Yes, it has.
19	Q Is that operated through the Thoroughbred Owners
20	and Breeders Association?
21	A I know who operates it, but I don't know whether
22	the TOBA operates it or not.
23	THE COURT: You mean you know the individual?
24	THE WITNESS: I know the individual.
25	THE COURT: Who is he?

1	wctb	Lawrence - direct 309
2		THE WITNESS: His name is Cliff McCartney. He is
3	in charge	of it.
4	Q	In any event, it was testified here, Mr. Lawrence,
5	that there	were other horsemen's organizations, one was the
6	TOBA.	
7	A	Yes.
8	Q	That is the Thoroughbred Owners and Breeders
9	Associatio	n.
10	A	Yes.
11	Q	Do you know what the nationwide membership of the
12	TOBA is?	
13	A	I don't think it is over 500.
14	ο.	And the American Trainers Association?
15	A	That's well over 20,000.
16	Q	The American
17	A	Excuse me, I thought you said HBPA.
18	Q	No, the American Trainers.
19	A	American Trainers, they are about two or three
20	hundred, I	think.
21	Q	What is the membership of the HBPA?
22	A	It is well over 20,000 nationally.
23		MR. MOSS: I have no other questions.
24		THE COURT: May I just inquire for my information
25	what does	this pension plan have to do with it?

CROSS-EXAMINATION

23

24

25

BY MR. HYDE:

Q Mr. Lawrence, do HBPA members belong to this

1	wctb Lawrence - cross	311
2	pension plan that is operated?	
3	A HBPA members?	
4	Q Yes.	
5	A HBPA members are owners and trainers, and they	,
6	have no participation in the pension plan.	
7	Q They do not share in the benefits?	
8	A No. It is for employees.	
9	THE COURT: Just for employees.	
10	THE WITNESS: Yes, sir.	
11	THE COURT: They are not members of the organi	zation
12	or anybody else?	
13	THE WITNESS: No, they are employees of the me	mbers
14	of the HBPA.	
15	Q In other words, they are employees in the back	-
16	stretch?	
17	A Yes.	
18	Q Who get the benefits of this plan?	
19	A Yes.	
20	Q Mr. Lawrence, on what do you base your stateme	nt
21	as to the number of members in HBPA?	
22	A I base that from articles in the Horsemen's Jo	urnal,
23	which is the news media of the national HBPA, and the	
24	President's letter from time to time makes mention of the	
25	size of the HBPA.	

1	Lawrence - cross 31	2
2	Q Is that also your source as to the figures you	
3	gave on the membership of the other horsemen's organization	ns
4	A No. I was a member of the American Trainers	
5	Association at one time myself. And I know it was about	
6	that size.	
7	Q How long ago was that?	
8	A It was about four years ago.	
9	THE COURT: How many?	
10	THE WITNESS: Four years ago.	
11	Q Do you know the present membership?	
12	Λ No, I don't.	
13	Q What was the other organization you named?	
14	A Thoroughbred Owners and Breeders Association.	
15	Q What is your knowledge as to membership in that	
16	organization?	
17	A My knowledge of that is that it encompasses the	
18	trainers throughout the breeders, owners and breeders,	
19	throughout the country. But they I used to belong to th	at
20	also.	
21	Q How long ago?	
22	A About eight years ago. But the fee was a little	
23	bit too rich. To be a charter member you have to pay a	
24	thousand dollars a year.	
5	Q So you dropped out?	

1	wctb	Lawrence - cross	313
2	A	I dropped out.	
3	Q	Upon what do you base your testimony as to the	e
4	present m	membership of that organization?	
5	A	It is just a calculation of the people I know	who
6	are in it		
7	Q	You know	
8	A	I have never seen a record of anything like th	nat.
9	Q	How do you know that there were the number of	
10	people yo	u testified were in that organization?	
11	A	I said I didn't think there were over 500.	
12	Q	I thought you testified that there were about	500
13	A	I said I didn't think there were over 500. I	am
14	pretty su	re that is what I said.	
15	Q	This is just your guess?	
16	A	Yes, it's a guess.	
17	Q	You testified to the termination of this check	off
18	by the NY	RA.	
19	A	Yes.	
20	Q	Did that termination occur prior to or after the	he
21	HBPA insti	ituted lawsuits against the New York Racing	
22	Associatio	on?	
23	A	Prior to?	
24	Q	Or after.	
25	A	The HBPA instituted lawsuits?	

1	wctb Lawrence - cross 314
2	Q Or after.
3	A I don't know, really. It was either
4	THE COURT: Either before or after.
5	THE WITNESS: Either before or after.
6	THE COURT: I knew that.
7	THE WITNESS: But
8	Q You don't know which.
9	A I believe it was after the Attorney General brought
10	out the injunction, and the NYRA joined in as a friend of the
11	court.
12	Q Was it after the HBPA then turned around and
13	started lawsuits against the New York Racing Association?
14	A How can I tell?
15	Q Well, you seem to be able to place it with
16	relationship to the boycott. I am asking you now
17	A It would have to come
, 18	Q if you could place this event with respect to
19	the HBPA's institution of the lawsuits.
20	A It was as a result of the stoppage of racing, but
21	I cannot tell you whether it came before or after the HBPA
22	started their lawsuits.
23	Q I think you testified with respect to references
24	for longer races, having races start in front of the grand-
25	stand. I want to ask you: In your experience do racing

A

Two.

1	wctb Lawrence - cross 316
2	Q How many times have you run this year, your horses
3	run this year?
4	A I think I ran four times this year.
5	Q Do you have any 2-year-olds?
6	A Yes, I have three 2-year-olds.
7	Q How many times have those 2-year-olds run this year?
8	A They are not ready to run.
9	Q They are occupying stalls?
10	A Yes, two of them are.
11	You testified with respect to trainers coming in
12	after the start of the meeting, and you mentioned Mr. Phipps,
13	his horse trainer, and the Calumet Farm. Do you know of any
14	instances where a non-Jockey Club or non-NYRA trainer has
15	come in after the start of a meeting and occupied stalls?
16	A Yes, I can say that I do.
17	Q Can you, Mr. Lawrence, name any of these Jockey Club
18	people who you said come to Saratoga who do not otherwise
19	race in New York?
20	A Well, I can name one. That is Mr. Taylor.
21	Q Mr. Taylor?
22	A Yes. He doesn't ordinarily race in New York.
23	Q Does he ever?
24	A He does send a horse down occasionally, yes.
25	Q To other New York tracks?

1	wctb	Lawrence - cross - redirect 317
2	A	Yes.
3	Q	Can you name anyone other than Mr. Taylor whom you
4	had in min	d when you said there were Jockey Club people who
5	come to Sa	ratoga who do not otherwise race in New York?
6	A	Well, I believe Mrs. Bancroft is one. You don't
7	keep those	things
8	Q	Mrs. Bancroft?
9	A	Yes.
10	Q	She is a member of the Jockey Club?
11	A	I don't know whether she is or not, but I believe
12	she has sor	me connection with it.
13	Q	What connection?
14	A	I don't know. Probably her husband. I am not sure.
15	Q	You don't know, in other words?
16	A	No, I don't.
17	Q	Mr. Lawrence, let me ask you this, as a horse
18	owner and t	rainer: Would it be your preference to see the
19	purses at S	Saratoga held down to 3 percent of the handle at
20	Saratoga?	
21	A	No, it wouldn't.
22		MR. HYDE: No further questions.
23	REDIRECT EX	AMINATION
4	BY MR. MOSS	
5	Q	Has anybody asked you for your preference, Mr.

		392a	
1	wctb	Lawrence - redirect	318
2	Lawrence?		
3	λ	No, Mr. Moss.	
4	Q	With respect to your 2-year-olds, how many o	lid you
5	say you ha	id?	
6	A	I had four. I sold one. I have three left.	
7	Q	Where are they?	
8	А	Two are at Belmont and one is on the farm.	
9	Q	And you have already raced the two you had a	ıt
10	Belmont fo	ur times this year, did you say?	
11	Λ	No, that was a 4-year-old that I raced.	
12	Q	Well, you could not have had three horses in	two -
13	Λ	Well, let me explain it to you. I had two s	
14	and I had	two older horses in them. I was trying to ge	
15		nt where I could run them, which I did with o	
16		one got hurt. The one I did run, she'd keep	
17		, eleven lengths at a time. So I put her on	
18		er. Then when I sold those two, I put the tw	
19		s which I had been work on the farm.	
20	Q	Which you thought were ready?	
21	A	Well, they were preparing. They were about	
22		from the race, providing nothing happens to	
23			
24	Jockev Club	THE COURT: I take it you are not a member o	t the
	- www.th.w. v. L. I I I I I		

THE WITNESS: No, but I was partner with a man who

were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	1	Wctb Lawrence - redirect 319
That was Walter Fletcher. THE COURT: Walter Fletcher. THE WITNESS: Yes. Q When you have had horses in other years when you have had larger stables, Mr. Lawrence, two is about as low as you can get, is that so? A Yes. Two is a bad number. Q In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. Q When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? Yes. The fact that I don't have the animals.	2	was a member of the Jockey Club and you probably know him.
THE WITNESS: Yes. Q When you have had horses in other years when you have had larger stables, Mr. Lawrence, two is about as low as you can get, is that so? A Yes. Two is a bad number. Q In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. Q When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	3	
when you have had horses in other years when you have had larger stables, Mr. Lawrence, two is about as low as you can get, is that so? A Yes. Two is a bad number. In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	4	THE COURT: Walter Fletcher.
have had larger stables, Mr. Lawrence, two is about as low as you can get, is that so? A Yes. Two is a bad number. Q In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. Q When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	5	THE WITNESS: Yes.
have had larger stables, Mr. Lawrence, two is about as low as you can get, is that so? A Yes. Two is a bad number. Q In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. Q When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	6	Q When you have had horses in other years when you
you can get, is that so? A Yes. Two is a bad number. Q In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. Q When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	7	
In other words, in order to give you less than two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	8	
two in effect they would have to exclude you from racing entirely, isn't that so? A Yes. When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	9	A Yes. Two is a bad number.
2 entirely, isn't that so? A Yes. When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	10	Q In other words, in order to give you less than
13 A Yes. 14 Q When you had larger stables of horses racing there 15 were you required to use a substantial number of those stable 16 for racing horses? 17 A Use a substantial number of what? 18 Q Of the horses you had for actual participation in 19 racing. 20 A Yes, they participated. 21 Q Would you say that your participation in racing 22 has been hampered by the fact that you have so few horses at 23 the present time? 24 A Yes. The fact that I don't have the animals.	11	two in effect they would have to exclude you from racing
When you had larger stables of horses racing there were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	12	entirely, isn't that so?
were you required to use a substantial number of those stable for racing horses? A Use a substantial number of what? Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	13	A Yes.
for racing horses? A Use a substantial number of what? Q Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	14	Q When you had larger stables of horses racing there,
17 A Use a substantial number of what? 18 Q Of the horses you had for actual participation in racing. 20 A Yes, they participated. 21 Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? 24 A Yes. The fact that I don't have the animals.	15	were you required to use a substantial number of those stables
Of the horses you had for actual participation in racing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	16	for racing horses?
Pracing. A Yes, they participated. Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	17	A Use a substantial number of what?
20 A Yes, they participated. 21 Q Would you say that your participation in racing 22 has been hampered by the fact that you have so few horses at 23 the present time? 24 A Yes. The fact that I don't have the animals.	18	Q Of the horses you had for actual participation in
Q Would you say that your participation in racing has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	19	racing.
has been hampered by the fact that you have so few horses at the present time? A Yes. The fact that I don't have the animals.	20	A Yes, they participated.
23 the present time? 24 A Yes. The fact that I don't have the animals.	21	Q Would you say that your participation in racing
A Yes. The fact that I don't have the animals.	22	has been hampered by the fact that you have so few horses at
	23	the present time?
25 Q You neither have the horses nor the stalls, is that	24	A Yes. The fact that I don't have the animals.
	25	Q You neither have the horses nor the stalls, is that

1	wctb Lawrence - redirect 320
2	correct?
3	A That's right.
4	THE COURT: There is no use of having stalls if yo
5	don't have horses.
6	THE WITNESS: No, you run out of horses. Some
7	years you have them , some years you don't. Heavy attrition.
8	Q You said that in certain cases other people than
. 9	Jockey Club members came in later, is that correct?
10	A Yes.
11	O Those stalls were used by temp.'s, until they came
12	in?
13	THE COURT: By whom?
14	Q Temporaries.
15	A Yes, the Racing Secretary put temporaries in there.
16	Q Except in the case of Jockey Club members, were
17	stalls held vacant for people who came in?
18	A Not to my knowledge, not to any serious length of
19	time.
20	Q You have observed this but never except with Jockey
21	Club members, is that correct?
22	A Yes.
23	MR. MOSS: I have no other questions.
24	THE COURT: I thought you said they were, in answer
25	to one of Mr. Hyde's questions.

1	Lawrence - recross 321
2	MR. MOSS: No, if your Honor please, may I be
3	heard on that? He said that there were other times when
4	other people came in later. But those stalls, it has now
5	been brought out, were not kept vacant for them. They had
6	temporary people filling those stalls until they came in.
7	THE COURT: Didn't they have temporaries for the
8	Jockey Club people too?
9	THE WITNESS: Some people move out and other people
10	move in.
11	THE COURT: What difference does it make whether
12	it was a temporary or not?
13	MR. MOSS: What I am trying to say and what I
14	thought the witness testified to, your Honor, was that in the
15	case of Jockey Club members they were not used by temporaries
16	these stalls were kept vacant.
17	THE COURT: Assuming that is the case, what
18	difference does it make?
19	MR. MOSS: Here are people dying to get into these
20	raceways for stalls and they are leaving them being used by
21	nobody. That is the difference it makes.
22	MR. HYDE: I don't believe the witness testified
23	to that fact. Mr. Moss.

RECROSS-EXAMINATION 24

BY MR. HYDE:

1	wctb Law once - recross 322
2	
	and burns were kept completely
3	empty?
4	MR. MOSS: I did not say barns completely empty.
5	MR. HYDE: That is what you said.
6	MR. MOSS: I said stalls. I did not say barns.
7	THE COURT: You testified that sometimes Jockey
8	Club members came late.
9	THE WITNESS: Yes.
10	THE COURT: Were there stalls used by temp's when
11	they were waiting for them?
12	THE WITNESS: Not ordinarily.
13	THE COURT: Why not, so far as you know?
14	THE WITNESS: Why not?
15	THE COURT: Yes.
16	THE WITNESS: Because they were their barns as far
17	as
18	THE COURT: Why would they not use Jockey Club
19	members for temporaries when they did not use the other?
20	What difference would it make who the owner was?
21	THE WITNESS: I don't know, these stalls just
22	remained vacant.
23	THE COURT: I am just trying to get the rationale.
24	What difference does it make to the owner? (a) I am a member
25	of the Jockey Club; (b) I am not a member of the Jockey Club.

1	wctb	L	awrence - recross	323
2	I have a s	table rented	from March 1, and I	get there March 15.
3	What diffe	rence does it	make to me whether	between March 1
4	and March	15 somebody e	lse is using the st	all?
5		THE WITNESS:	That is up to the	association.
6		THE COURT:	I understand. What	difference does
7	it make to	me?		
8		THE WITNESS:	To you as a Jocke	y Club member?
9		THE COURT:	As the owner of a h	orse, whether I am
10	a Jockey C	lub member or	not a Jockey Club	member.
11	er a	THE WITNESS:	It makes no differ	cence as long as I
12	get a stal	1.		
13		THE COURT: A	As long as you get i	t on the 15th. So
14	what is you	ir theory of w	thy they should hold	the stalls for a
15	Jockey Club	member and r	not hold it	•
16		MR. MOSS: I	will bring it out h	y questioning
17	rather than	by statement	, if your Honor ple	ase.
18		THE COURT: T	hat would be a good	idea.
19	BY MR. MOSS	3 :		
20	Q	Are there cer	tain barns that tra	ditionally are kept
21	for Jockey	Club members?		
22		THE COURT: C	ertain what?	
23		MR. MOSS: Ba	rns.	
24		THE COURT: B	arns?	
25	Q	Barns.		

1	wetb	Lawrence 324
2	A	Yes, they go in the same stable every year, the
3	same barn.	
4	Q	And those things are kept in reserve for them, is
5	that corre	ct?
6	A	Yes.
7	Q	They just don't put anybody else into their stalls
8	is that co	rrect?
9	A	That's right. That has been the practice.
10		THE COURT: Until when?
11		THE WITNESS: Well, it's changed a little bit since
12	Mr. Noe has	s been here.
13		THE COURT: Since who?
14		THE WITNESS: Mr. Noe.
15		THE COURT: I see.
16	Q	If somebody is in the stall and there is some
17	delay, you	don't have a choice of coming p any day you choose
18	to send a h	norse up, you have to wait until somebody else makes
19	preparation	to leave, is that correct?
20	Λ	Yes.
21	Q	And if the stall is held vacant for you any time
22	the notion	strikes you, you can send up part or all of your
23	horses, is	that correct?
24	A	That's correct.
25	Ω	To that extent, is it or is it not a convenience

1	wctb Lawrence 325
2	of the owner to have stalls held vacant for him?
3	A It is a convenience.
4	BY MR. HYDE:
5	Q Mr. Lawrence, do non-Jockey Club trainers
6	customarily have the same barn year after year?
7	A Not customarily but
8	Q It has been known to happen?
9	A Yes.
10	Q How about Mr. Jacobson, who is a plaintiff in this
11	lawsuit? Did he have the same barn year after year when you
12	were there?
13	A I don't know. He was at Aqueduct and I didn't
14	stay with Aqueduct.
15	Q How about Mr. Jacobs, who is now the President
16	of the HBPA, does he have the same barn year after year?
17	A Mr. Jacobs has had the same barn two years in a
18	row, I think. He is in Barn 50 and he moved over here to
19	Belmont from Aqueduct.
20	Q Before he moved did he have the same barn?
21	A I don't know. I very seldom go to the stable
22	area at Aqueduct.
23	MR. HYDE: I have no further questions.
24	MR. MOSS: No further questions.
25	THE COURT: Thank you.

1	wctb	Caplan - direct 326	
2		(Witness excused.)	
3		MR. MOSS: I will call Mrs. Caplan.	
4	SUE	C A P L A N, called as a witness by the plaintif	fs
5	being	first duly sworn, testified as follows:	
6	DIRECT EXA	MINATION	
7	BY MR. MOS	S:	
8	Q	I refer to Plaintiffs' Exhibits 8, 9, and 10 in	
9	evidence,	which are the New York Racing Commission's annual	
10	reports, a	nd I ask you whether or not there is a portion of	
11	those thin	gs which lists for each year the names of winners	
12	of \$100,00	0 or more at the New York tracks.	
13	Α	Yes. It lists stables which won \$100,000 or more	,
14	that year.		
15	Q	For which three years do you have there, please?	
16	Λ	Excuse me?	
17	Q	Which three years do you have there, please?	
18	A	'67, '68 and '69.	
19	Q	For a 1967, how many stables won \$100,000 or more	?
20	A	33.	
21		THE COURT: 33?	
22		THE WITNESS: 33.	
23	Q	Of those 33, how many were Jockey Club members?	
24	A	13.	
25	Q	In 1968 how many people were listed as winners of	•
10.000			

1	wctb	Caplan - direct - cross 327
2	\$100,000 0	r more?
3	A	40.
4	Q	Of the 40, how many were Jockey Club members?
5	A	14.
6	Q	In 1969 how many people were listed as having won
7	\$100,000 0	r more?
8	A	36.
9	Q	Of that 36, how many were Jockey Club members?
10	A	16.
11		THE COURT: Did you ever figure out the percentages?
12		THE WITNESS: No, your Honor, not exactly.
13		MR. MOSS: Maybe we can do that right now.
14		I have no other questions.
15	CROSS-EXAM	INATION
16	BY MR. HYD	E:
17	Q	Miss Caplan, have you checked off the stables
18	that you i	dentified as being Jockey Club members?
19	Α	Yes.
20	Q	And that is in each book?
21	Α '	Yes.
22	Q	You testified that in the year 1967 there were
23		33 stables which won more than \$100,000, which were
24	Jockey Clu	b stables; is that correct?
25	A	Right.

		402d	
1	wctb	Caplan - cross	328
2	Q	So that I take it there were 20 stables which	wer
3	not Jockey	Club stables which won more than \$100,000?	
4	A	Right.	
5	Q	Do you know how many members the Jockey Club h	ad
6	in 1967?		
7	A	I could count them up for you. I have the lis	st
8	right in f	ront of me. I don't know offhand.	
9	Q	Do you have it year by year?	
10	A	Yes.	
11	Q	Would you accept for present purposes a figure	
12	of 70?		
13	A	Yes.	
14		MR. HYDE: And I give that, your Honor, only a	s
15	to approxim	mation. I don't know the exact number in each	of
16	these years		
17	Q	So that if there were 13 Jockey Club members w	ho
18	won more th	nan \$100,000 in 1967, there were 57 Jockey Club	
19	members who	failed to win \$100,000 in New York in 1967, i	s
20	that correc	et?	
21	A	Well, but I don't know if they raced in New Yo	rk
22	at all.		
23	Q	You made no effort to ascertain who raced in No	ew
24	York and wh	no did not race in New York?	
25	A	I went by the list published by the commission	

24

25

1	wctb	Caplan - cross 329
2	Q	You did not look at people licensed in New York
3	to determi	ne who was racing in New York and who was not.
4	A	I simply made the appropriate computation from
5	the tables	of the commission. I didn't refer to anything
6	else.	
7		THE COURT: On the basis of who had won?
8		THE WITNESS: That's right.
9		THE COURT: The commission did not tell you who
10	had raced?	
11		THE WITNESS: No, the commission just told who had
12	won the \$1	.00,000 or more.
13	Q	I take it your study was limited to New York.
14	A	My study is limited to the publication by New York
15	State Raci	ing Commission.
16	Q	You have no idea of what the figures would be if
17	you took,	say, Hialeah, and looked at the number of Jockey
18	Club membe	ers and non-Jockey Club members who won more than
19	\$100,000	at Hialeah?
20	A	We are talking about the New York tracks.
21		THE COURT: No, he is just asking you, did you do
22	Hialeah,	and the answer is no.

THE WITNESS: No.

You have no idea whether the figures you have given for New York differ in any way from those elsewhere?

	404a	
1	wctb Caplan - cross	330
2	A No.	
3	MR. HYDE: I have no further questions.	
4	MR. MOSS: No further questions.	
5	(Witness excused.)	
6	MR. HYDE: May we look at those three exhibit	8?
7	MR. MOSS: Of course.	
8	MR. HYDE: If we have any questions, Mrs. Cap	lan,
9	I am sure, will be around.	
10	MR. MOSS: Yes.	
11	Your Honor, we seem to be in a perpetual stat	e of
12	not having timed this thing right. Both of us, I think,	have
13	fallen into that error because of the difference in the	pace
14	of the other trials which we have had.	
15	THE COURT: That is all right. You have one	
16	witness, you say?	
17	MR. MOSS: I have Raymond Karlinsky, who is o	ne
18	of the plaintiffs, who I propose to put on tomorrow morn	ing.
19	We are seeing him this evening, this afternoon, and I am	
20	assuming he will be available tomorrow morning. I have	no
21	reason to believe that he will not. At that point we con	me to
22	the witness whom we discussed yesterday is coming back for	rom

Puerto Rico Friday, and I would like to have him heard on

Monday or some other time. As I understood it, Mr. Hyde said

not Monday morning but after Monday morning or some such thing

23

24

2 is satisfactory, whatever his convenience is.

MR. HYDE: I do have a motion before Judge Bonsal at 9:30 on Monday morning. I would hope I would be through in an hour or so.

THE COURT: We have one witness tomorrow.

MR. MOSS: That is right. I certainly overestimated, I should say, and I get the impression that the other side did too.

THE COURT: What about rebuttal?

MR. HYDE: I would expect to be very brief, your Honor. I am, of course, not in a position to commit myself until I see what the plaintiff is going to testify to.

MR. MOSS: If we have tomorrow morning, and we have Thursday, Mr. Hyde does not mind going out of turn, I am certainly glad to do that.

THE COURT: What do you propose to have your accountant prove?

MR. MOSS: I am going to have the accountant prove the percentage of stall applications granted to members of the Jockey Club as contrasted with the percentage of stall applications granted to ordinary people who are not members, and I want to show that in one of the years -- we took three years and compared them with Saratoga one year -- that the average was something like 88 percent or 86 percent, whatever

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

it was, granted for members, and a much smaller percentage,

probably 61 percent, for nonmembers. In Saratoga the members'

applications were granted to the extent of 92 or 93 percent,

with a corresponding number of applications granted to non
members.

THE COURT: As Mr. Hyde has pointed out on crossexamination, do you know if it is any different in any other track in the country?

MR. MOSS: If your Honor please, if there are other tracks doing this kind of thing, I think the horsemen in that area ought to commence a lawsuit against them.

THE COURT: The Jockey Club is not in control in other areas. I assume, without knowing it, that the Jockey Club tries to get members who have good stables.

MR. MOSS: That is right.

THE COURT: And to the extent they are successful they are going to win the greater percentage of the prizes.

MR. MOSS: I grant you that too.

THE COURT: And they are going to have the greater percentage of stalls accepted in New York and in every other place.

MR. MOSS: Not the percentage of the stalls accepted. They may get more stalls.

THE COURT: They will get the better percentage,

23

24

1

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

according to the testimony that has been given to me. According to the testimony that has been given to me, what they are looking for is good horses.

MR. MOSS: That is right.

THE COURT: And active horses. If the Jockey Club achieves its club objective of getting members who have good horses and active horses, its members are going to get a bigger percentage of the take and a bigger percentage of the stables accepted in New York, Hialeah and any other place, regardless of who is in charge. So that unless you prove that, it seems to me -- and, as you pointed out, there are others older and wiser than I that will pass on that --

MR. MOSS: I don't think I pointed that out to your Honor.

THE COURT: But i+ seems to me that you have not proved anything unless you show that it is different here than it is somewhere else.

For example, if the Massachusetts legislature in its wisdom or unwisdom should decree that the Harvard Law School placement center would be run by the editors of the Harvard Law Review, it would follow at the end of a ten-year operation that they placed Harvard Law Review editors in better jobs than the average of the college, of the school. But that would not show that they favored themselves. Because

25

if it had been put in anybody else's charge, the same thing would happen.

MR. MOSS: But if I connect the evidence, which your Honor probably has disagreed with, but which we put in, to the effect that they favored themselves in various opportunities in types of races --

THE COURT: You have not even suggested that yet.

MR. MOSS: I think I have.

THE COURT: How?

MR. MOSS: And then if we show a substantial financial difference in return, at that point we would argue that there is a relationship between the two.

THE COURT: In the first place -- and educate me -
I have not seen a suspicion of evidence to that effect. The

only suspicion -- and I don't call it evidence because I don't

really think it comes up to that -- is Mr. Lawrence's

impression that that happens. Everybody else has categorically

denied it, and I don't see any suspicion that it is true.

MR. MOSS: Your Honor, I merely hope to complete my record. I have very small hope--as a matter of fact I am being euphemistic, I am being optimistic, when I categorize it as small hope -- of prevailing upon your Honor to accept my view. I have abandoned that effort, and merely wish to be allowed to put my record in and perhaps submit a memorandum

2 | later to make my argument.

THE COURT: You can do whatever you like, but the reason I express these views is not to upset you but to expose my ignorance, if that is what it is, so that you can point out where I am wrong. But what evidence have you got? You pointed out that some horses like to run on turf and other horses like to run on the ground, whatever you call it, dirt. Never having been to a race track in my life, I would have started off under that assumption. But there is not a scintilla of evidence, to my knowledge, that Jockey Club owners own one category of horse or another. So if we have shown that some horses like dirt and some like grass, and the management of the race track has increased the number of grass races, how does that get us anywhere?

MR. MOSS: Because if management liked grass races and management had people on it who stood to profit by grass races --

THE COURT: That is what you assumed. The legislature made the opposite assumption.

MR. MOSS: I don't argue with the legislature any more than I do with your Honor.

THE COURT: The legislature in its stupidity or wisdom, to change the analogy, has said that the Harvard Law Review people are going to run the Harvard Association.

MR. MOSS: If your Honor please, your Honor just made the basic assumption, which really ends the argument, because I have no answer to it if your Honor's assumption is right. The legislature having permitted this thing and presumably, as I understand your Honor's argument, had conceived that these people would act for their own favor and in their own benefit --

assumption. The legislature assumed that these people, unlike people generally, are going to act in the public interest even though they have a private interest in it. The legislature, having made that assumption, you have to prove that they were wrong. You cannot merely say they have an interest, and therefore I have got to assume that they are using their interest. If Mr. What's-his-name, who thought he knew what went on in the subconscious -- I don't believe he does know what goes on in his subconscious -- but I was quite impressed with the manner in which he answered my question, and I am satisfied that he believes at least that he is wholly uninfluenced by the interest of his employers.

MR. MOSS: I am sure he is.

THE COURT: It may even be that he succeeded in that, it may be that he leans over backwards, for all I know. You have suggested that this man Trotter was fired because he

did not give Mr. Phipps a stall. Then the next witness comes on and he impresses me as an exceedingly truthful witness and, point one, it was perfectly obvious that he was hired with good qualifications.

MR. MOSS: I agree with that.

THE COURT: Point two, if that is the reason they fired Trotter and wanted to remedy the situation, they certainly were idiots not to find out if the new man would do better. They never suggested to him anything about stalls. Point three, your witness comes on and shows that your man cleans up the trouble that Trotter left.

So how does that leave us with the firing of Trotter as something sinister? When I say "your man," Mr. Lawrence, my neighbor -- ex-neighbor. He comes in and points out that Mr. What's-his-name --

MR. HYDE: Noe.

THE COURT: You may have noticed I am not good at names. -- Mr. Noe comes in and does a better job than Trotter did, therefore vindicating Mr. Vanderbilt's judgment that Trotter ought to go and the new man comes in. So that seems to me to eliminate any reasonable basis for firing him because he did not give Mr. Phipps a stall, which is what you were trying to suggest.

MR. MOSS: I say that was.

6 7

5

2

3

8

9

10

11

12

13

14

15

16

17

18

19

20 21

22

23

24

7 8

THE COURT: The legislature has decided these people were the best people available. There is nothing wrong with conflict of interest. I just had to rule with respect to that in a trial. A defendant moved to disqualify the plaintiff's lawyer on the ground that there was a conflict of interest between the two plaintiffs. And they had one lawyer. The conflict was as clear as the nose on their face, but the two plaintiffs wanted it that way and they were satisfied that this lawyer could handle their cases despite the conflict.

The legislature has decided that these people can handle their conflict of interest and put them in that situation. Before you can charge these people with violating that legislative judgment you have got to prove to me they have done it. You just cannot say, "They have a conflict of interest, which the legislature knew they had when they put them there, and therefore they must have been violating their oath of office." It just does not follow.

I lay these thoughts out so that tomorrow you can fMR. MOSS: Your Honor, I suggest you are laying
me out.

THE COURT: I am not laying you out. If you came up with different thoughts, it may come out differently. The reason I lay these thoughts out is so that you have a chance

MR. HYDE: Perhaps we can agree that if called he

wctb

would identify these figures, so that we don't have to come back Monday.

MR. MOSS: We will not agree any more than you want to agree about Commissioner Gimma.

THE COURT: You can put in your case Thursday with leave to reopen if he comes in with a surprise.

(Adjourned to July 10, 1974, at 10:30 a.m.)

1	wctb Karlinsky - direct 341
2	x
3	Raymond E. Karlinsky, Howard Jacobson, :
4	Harry M. Hatcher, and Horsemen's Benevolent and Protective Association,
	Inc., etc.,
5	
6	Plaintiffs,
-	-against-
7	The New York Bank
8	The New York Racing Association, Inc., Jockey Club, James C. Brady, George D.:
	Widener, John C. Clark, etc.,
9	,
10	Defendants.
10	
11	Т
12	New York, N. Y.
12	July 10, 1974 - 10:30 a.m.
13	MR. MOSS: Mr. Karlinsky, please.
14	RAYMOND E. KARLINSKY, called as a
15	witness in his own behalf, being first duly sworn,
16	testified as follows:
17	THE COURT: You are one of the plaintiffs?
18	THE WITNESS: Yes.
19	DIRECT EXAMINATION
26	BY MR. MOSS:
21	Q Mr. Karlinsky, you are one of the plaintiffs in
22	this case?
23	A I am.
24	Q Have you been engaged in horse racing in New York?
25	A Yes.

Were you at any time during this period, Mr.

1	Wctb Karlinsky - direct 343
2	Karlinsky, an officer of the HBPA?
3	A Yes.
4	Q Would you tell us what office, please.
5	A At various times I was an alternate director. At
6	various times I was a director. And at various times I was
7	Vice-President of the Horsemen's Benevolent and Protective
8	Association, New York division.
9	THE COURT: What is an alternate director?
10	THE WITNESS: In the election of directors there
11	are, I am not sure, five trainers and five owners, or six
12	trainers and six owners. And then because of the possibility
13	of illness or these trainers and owners not being available,
14	there are always two additional alternates that are the men
15	that receive the next number of votes and are asked to serve
16	as advisory directors and to fill in at board meetings and
17	at deliberations when there is no quorum present.
18	Q Did the HBPA have any dealings with the NYRA
19	during this period of time?
20	A Yes.
21	Q Will you give us a general description of their
22	activities, please.
23	A The HBPA's dealings with the NYRA? Was that the
24	question?
25	Q Yes.

THE COURT: That is the question.

A During all this time there were numerous meetings between various of the committees of the HBPA.

THE COURT: Wait a minute. You mentioned so many times I have lost focus. What times are you now talking about?

7 8

THE WITNESS: I am talking of the early sixties through 1970. During this period of ten years there were numerous meetings between the HBPA, the various employees of the NYRA, the Racing Secretary, the stall committee, the stewards, the judges, the back track employees. There were numerous discussions, some of which I was present at, with Mr. Basil and various of his associates in the NYRA concerning insurance, backstretch welfare, pensions, purses. In fact, during all the time that I was a director of the HBPA there were numerous meetings between the NYRA, formally and informally, concerning all matters concerning racing.

Q Was there a so-called checkoff system with respect to dues for the HBPA?

A Yes. There was, as I recollect, a slip that the HBPA circulated to each person racing at New York tracks, authorizing the New York Racing Association to subtract 1 percent of purses from the moneys paid to the people racing at the track and to pay it directly to the HBPA. In fact, I

believe that was the HBPA's source of income.

3

1

2

Mr. Karlinsky, during these ten years were you Q frequently at the track?

5

4

Yes.

6

7

I don't only mean in the grandstands. I mean in the working areas of the track.

8

A Yes.

9

10

11

In connection particularly with the disposition of stalls, did it come to your attention that there was a difference in the way stalls were handled for members of the Jockey Club and trustees of the New York Racing Association and other people who were not members?

12 13

> A Yes.

14 15

16

17

MR. HYDE: I object to the question, your Honor. "Did it come to your attention" calls for all sorts of hearsay, rumor and the like. I think the question should be limited to specific illustrations which this witness has

18

19

personal knowledge of.

20

MR. MOSS: If your Honor please, may I be heard on that?

21 22

23

THE COURT: There is no jury here, and what you say is correct as to probative value, but he can get it in his own way, and when we get through we will find out if there is any probative value to what he says or there is not.

MR. MOSS: Would you repeat the question.

3

1

THE COURT: He answered yes.

4

MR. MOSS: He answered yes.

5

Q Would you describe those differences, Mr. Karlinsky.

6

7

A Yes. During the sixties and all the time that I was racing at New York tracks, it was explicit and implicit that my horses be at the race track prior to the opening of the meeting, and that my horses stay constructively to the

10

9

THE COURT: What do you mean "constructively"?

11

THE WITNESS: You might leave a day or two before

13

the race meet ended if there were no horses that you had left

14

to run. But you would certainly not be permitted to leave in

15 16 the middle of October if the race meet was going to go on through November 30. And explicit and implicit means that

17

it was set and understood.

end of the meeting.

18

THE COURT: Who said it?

19

THE WITNESS: It was said to me directly by the head of the stall committee. It was said to me by the

20

Racing Secretary. It was said to me by various members of

22

the NYRA employed by the NYRA. And in this respect I was

23

asked to remove my horses in 1962 or '63, and I made a

24

25

tremendous inquiry and fought with all of them over the matter and had the matter laid out, spelled out for me. I

only had four horses the year before, they were basically infirm, they weren't terribly fit, I hadn't run all that much, and would I please move my horses off the ground. And that order was rescinded after a battle. But I had the opportunity in the early sixties to get to the bottom of just what was required of me as an owner and what was required of my fellow owners to be able to continue. I knew that year I had to get six or eight horses into that track that were going to run 120 to 140 times, and that I was going to have to stay there from the beginning of that year until the end of that year, or I could look forward to having no stalls in the ensuing year.

As to a lot of the other people in racing, the same thing applied. We all knew it. We were in the bottom side of Belmont. The upper side of Belmont that surrounded the training track and the main track were a totally different animal. There were barns that were empty. They stayed empty through February, March, sometimes into April, and partially right into May. The people that occupied those barns, I think it is a historical date, the Champagne stakes, they would start leaving after the Champagne stakes in October. You could count on those barns being basically empty before the race meet had three more weeks to elapse.

1

3

I inquired. I wondered why I should be forced to be there early, leave late, run my horses frequently. And I was told that these barns were the property historically of members of the Jockey Club and the NYRA, and the same rules did not apply to them.

7

5

6

THE COURT: Who told you that?

8

9

THE WITNESS: This was told to me by the head of the stall committee, I believe the man's name was Mr. Kennedy, directly or indirectly in pleasant conversation. Mr. Kennedy told me this directly.

11

10

THE COURT: He told you different rules applied to

13

you?

12

THE WITNESS: Yes.

14

Q Mr. Kennedy at that time was Vice-President in charge of racing operations, was he not?

16 17

A I believe so. I don't recollect what he was.

18

MR. HYDE: May we have the year, your Honor?

19

THE COURT: When was the year of this conversation?

20

THE WITNESS: I believe '63 or '64. I am not

21

quite sure. It is a long time ago.

22

Q Have you ever been to Saratoga, Mr. Karlinsky?

23

A No. You mean to race at Saratoga, or to go?

24

Q

You have not raced your horses at Saratoga?

25

A No. I have never raced my horses there.

1	wetb	Karlinsky - direct 349
2	Q	But have you been to Saratoga at these race
3	meetings?	
4	A	Yes, I was at every race meeting at Saratoga from
5	1960 to 19	70.
6		THE COURT: What happened in 1970?
7		THE WITNESS: In 1970 I discontinued my racing
8	operations	as such, and kept only my breeding stock.
9	Q	And you have been breeding since 1970?
10	A	Yes.
11	Q	Have you begun to go back into racing?
12	A	Yes.
13	Q _	When did you start to go back into racing?
14	A	In the spring of this year.
15	Q	In any event, do you know of any differences
16	between the	e meeting at Saratoga and the NYRA meetings of the
17	New York Ci	ty tracks?
18	A	Yes. There were substantial differences.
19		First, all the elite of racing shipped their horses
20	to Saratoga	. In addition to the Jockey Club members and the
21	NYRA member	s who were stabled in New York all year long,
22	there were	further I cannot recollect their names
23	members, re	elatives, friends, of the NYRA and the Jockey Club
24	who were gi	ven further stall space, reducing the general

stall space available for other horsemen in Saratoga.

Is that responsive to your question, sir?

Q Yes.

THE COURT: Did you ever try to get a stall space in Saratoga?

THE WITNESS: No.

- Q Is there an economic problem with respect to going up to Saratoga?
 - A Absolutely.
 - Q Will you describe that, please.

horses must find accommodations for 30 days in a resort area at a very high expense. You must pay your grooms and your help one and a half times what you pay them normally to work for you in the New York area. You have the expense of shipping your horses for a 30-day period to and from Saratoga, \$300 on an average per horse. And I have reckoned for myself in my own stable that it costs somewhere in excess of \$600 to \$700 more than the cost of racing your horse in New York for the pleasure of shipping it to Saratoga. And I ruled against that from the very beginning.

Q Is there an additional factor that you have to face this additional elite competition that you described?

A The nature of horse racing at Saratoga is such that the proportion of 2-year-old races for horses of a certain

class, the preponderance of the stake race a day, the type and classes of races, virtually precluded the type of stable I was running during this period of time from having any economic opportunity.

THE COURT: I take it that is just a frosting on the cake, because the expenses were such you would not have gone up there anyway.

THE WITNESS: Well, if I could have won races I would have absorbed the expense, because I had to leave my horses in the barn in New York, give them a rest, ship a few of them to Jersey, and wait until the meet came back to New York.

THE COURT: In other words, the horses that raced in Saratoga were just too good for your horses?

THE WITNESS: Absolutely.

THE COURT: Is that it?

THE WITNESS: And, more importantly, the program that was written for the races was such that it attracted the class of people and there was no opportunity, unless I had a particular horse that would have filled into a category.

THE COURT: But if you could have got hold of Secretariat, you would have gone up there?

THE WITNESS: Do you want an opinion, sir?
THE COURT: I was being facetious.

THE WITNESS: My opinion is I would never race at Saratoga. That is my opinion, sir.

THE COURT: No matter how good your horse was?

THE WITNESS: No matter what I had.

THE COURT: Why is that?

THE WITNESS: I disapproved of Saratoga. It was a big party. It was totally inequitable. It was something from our past coming out of the middle 1800's, imposed.

And I opposed it. I opposed it. I opposed it as a director of the HBPA and personally.

Q Considering the different nature of the racing at Saratoga as you described it now and the city, would you say that a horse which might race profitably in the city would find it unprofitable to race at Saratoga?

THE COURT: He has already said that.

MR. MOSS: All right.

Mr. Karlinsky, are you able to form an opinion as to a theory which was expressed here that if it were not for racing at Saratoga during the 24 days in August that the racing program at Belmont and Aqueduct, beginning in September, the fall part of it, would not fill as well?

A I cannot even believe that that is a possibility of any kind. I just cannot believe that is so.

Q Would you say that the higher purses attract

	42/3
1	wctb Karlinsky - direct 353
2	people?
3	A I don't understand the question.
4	Q If Aqueduct and Belmont pay the highest purses,
5	that is where most people want to come, isn't that so?
6	A I might be confused by the question.
7	Ω Normally does a horseman go where he can race for
8	the highest purses if he can get in there?
9	A Absolutely.
10	MR. MOSS: I have no further questions.
11	THE COURT: Let me ask you on that line: If you
12	had to run, whether you approved of it or not, a meet at
13	Saratoga, would you have to produce higher stakes to get
14	anyone to go there?
15	THE WITNESS: I am sure that the stables that
16	shipped up there would not ever go if they did not run a stake
17	a day for a preponderance of 2-year-old horses. There would
18	be no reason for them to go there.
19	BY MR. MOSS:
20	
	. The first time the state of without the money
21	would have been sufficient to bring them up there?
22	A No conceivable way.
23	THE COURT: It seems to me that answers your
24	question, because the legislature says they have to do it and

he just told you the only way they can do it is to give you

higher stakes.

wctb

MR. MOSS: I beg your pardon. There is a fundamental misconception here somewhere. These people have to run racing at Saratoga. They don't have to run the kind of racing they run at Saratoga.

THE COURT: He just said there would not be any racing at all at Saratoga if they did not --

THE WITNESS: I didn't say that at all.

THE COURT: What did you say?

THE WITNESS: I said that the horses shipped in by the elite of racing would not ship for the Saratoga meeting.

THE COURT: Who would ship to the Saratoga meeting?
Who would spend all this money that you talk about in a
resort area?

THE WITNESS: Rockingham Park, sir, is a resort area. It runs a moderate program of racing. It attracts a full barn --

THE COURT: Where is Rockingham Park?

THE WITNESS: It is in New Hampshire. It is adjacent to the Berkshire areas. It attracts capacity crowds for a small track. It runs a moderate meeting. It has always been a profitable operation.

THE COURT: How long has it been run?

Karlinsky

THE WITNESS: I believe it runs two times during
the year, but I know it does run for 40-some-odd days during
the summer. And it attracts horsemen from all over New
England and New York and New Jersey. It's an attractive
little meet, it's a balanced meet, and it's a meet that
working horsemen would ship to and do ship to. And the same
would be true in Saratoga. I don't think there would be any
difference in the attendance of the crowds. I don't think the
fact that there is a stake a day has increased the number of
people coming to Saratoga in the last fifteen years that I
know of.

THE COURT: You don't?

THE WITNESS: No, I do not.

THE COURT: Why do they come? You mean you think the same number of people would come to see a --

THE WITNESS: I think there are so many people on vacation and there are so many people who follow the horses, and that the preponderance of the crowd that would go to Saratoga would go there anyway. It is the betting and it is the outdoors and it is the day's adventure that attracts them. They don't know the difference between the Grand Union and the Futurity and the Man in the Moon. It is just another race to bet \$2 on .

BY MR. MOSS:

	430a
1	wctb Karlinsky - direct - cross 356
2	Q Do you think that this tradition is what the
3	Saratoga show is really put on for?
4	A Yes. I think that the tradition and the feeling
5	that there is going to be a party, a social event, a gatherin
6	a gathering of the clans, an opportunity to race against each
7	other with our young 2-year-olds, is the thing that perpetuate
8	this thing, not the economics. The economics are absurd.
9	MR. MOSS: Thank you.
10	CROSS-EXAMINATION
11	BY MR. HYDE:
12	Q Mr. Karlinsky, on the subject of Rockingham Park,
13	do you know how the crowds at Rockingham compare with the
14	crowds at Saratoga?
15	A I really don't, sir.
16	Q Do you know how the handle at Rockingham compares
17	with the handle at Saratoga?
18	A All I know about Rockingham is it is a small track
19	in New England that has been running for many, many years.
20	All I know is that the man who owned the track and ran it
21	for many years told me he was very happy and very satisfied
22	and made a nice profit. I really am not prepared with

Q How far is it from Boston?

statistical information, sir.

23

24

25

A Oh, I imagine about 60 miles, isn't it?

1	wctb	Karlinsky - cross 357
2	Q	60? No, I would think closer to 35 or 40.
3	A	I really don't know.
4		MR. MOSS: We will accept that.
5	Q	Do you know that trains and buses go out there ever
6	day from Bo	oston?
7	A	I really don't know.
8	Q	Do you think that is comparable to Saratoga?
9	A	I don't think I tried to make that analogy, did I?
10		THE COURT: I thought you did. I am glad to hear
11	that you d	id not.
12	A	If we are going to have analogies, let's talk about
13	Atlantic C	ity. Atlantic City is a resort that is comparable.
14	Q	Let me
15		MR. MOSS: Let him finish the answer, please.
16		MR. HYDE: Mr. Moss may question him further.
17		MR. MOSS: He is permitted to answer the question.
18		THE COURT: He brought up Rockingham.
19	A	I picked it as an example in my mind at least of
20	another th	ing. If you want a comparison, I will give you one.
21	Q	No, I want to know about Rockingham, which you
22	brought up	, and I am satisfied with your answers.
23		Now, with respect to Saratoga, you say that the
24	reason you	did not race there was primarily an economic one?
05		Voc

1	wctb	Karlinsky - cross 358
2	Q	At the same time I believe you testified that you
3	raced hor	ses in England, in Ireland, in France?
4	A	Yes.
5	Q	But that Saratoga was too rich for your blood.
6	A	Yes.
7	Q	Mr. Karlinsky, what is your principal occupation?
8	A	I am in the insurance business.
9	Q	In what capacity?
10	A	I am an employee of an underwriting firm in New
11	York.	
12	Q	Prior to becoming an employee of that underwriting
13	firm, were	you the owner of that firm?
14	A	No.
15	Q	Were you a stockholder?
16	A	No.
17	Q	Were you a stockholder of a predecessor firm which
18	it acquire	
19	A	Yes.
20	Q	You sold out your business and became an employee?
21	A	Yes.
22	Q	Would you say that horse racing is an avocation of
23	yours?	- and a wood a close of
24	A	Yes.
25	Q	You said that you raced until August of 1970, at
		1- I acce differ August of 1970, at

1	wctb	Karlinsky - cross 359
2	which time	you stopped racing.
3	A	Yes.
4	Q	Why was that?
5	A	At that time I had very heavy financial obligations
6	I had tax	problems. I was engaged in other matters. And I
7	had found	the racing of horses burdensome, and I sold my
8	racing hor	ses and retained my breeding stock.
9	Q	That is the only reason you ceased racing in 1970?
10	А	Yes.
ıi	Q	Do you recall giving a deposition in this case on
12	March 5, 1	971?
13	A	Do I remember giving a deposition in
14	Q	Yes.
15	A	I gave no deposition in 1971.
16	Q	You did not?
17		MR. MOSS: Whatever the time was, did you give a
18	deposition	?
19	·	THE WITNESS: I believe in 1973.
20		MR. HYDE: Excuse me, you are quite right. I
21	misread th	e notice, date of notice.
22	Q	Do you recall giving a deposition on March 28, 1973:
23	A	If that is the date, yes.
24	Q	This is page 107. Do you recall being asked this
25	question a	nd giving this answer:

"Question: Why did you stop racing horses at the end of 1970?

"Answer: Because I had federal troubles with the Securities and Exchange Commission, and I was heavily engaged in protecting my business and my financial matters, and I felt my family and my personal life was more important than horse racing."

A Isn't that what in effect I said just before to you?

THE COURT: Yes, but not quite so eloquently.

MR. MOSS: In any event --

- Q Do you recall giving that question and answer?
 MR. MOSS: Just a minute.
- A Yes, but I gave it before in a different way.
- Q You testified that certain barns at the NYRA tracks were kept vacant until certain Jockey Club members arrived.

 Is that correct?

A Yes.

Q Do you know whether there were other horsemen available who wanted to use those barns at that time?

A Yes. In fact, I believe for one or two years there was a temporary stall progam where some horsemen were permitted to use a few stalls and had to move out when the Jockey Club and the NYRA members arrived.

Karlinsky - cross

361

while they were not in use they were norsemen?

will repeat that for you. I said that a er of these empty stalls were made available on a temporary basis, but only during the me that I recollect and only a small number

nave any personal knowledge of any stall some other horsemen being kept available member or NYRA trustee?

ask you if you recall giving this testimony

This is page 87 and 88.

on: Did you know whether anybody else e stalls at that particular time?

: Of my own personal knowledge?

on: Yes.

: Or from hearsay?

on: Your own personal knowledge.

: No."

hen I will answer in the same way now.

bout to give you a hearsay answer, but as

2 THE COURT: in this business. We And he jus answer to that questi I think yo states, and I believe 7 8 New England, New York you have raced in? 10 You are re kept records, because 11 12 You cannot 13 A I can give 14 important to you. Go ahead. 15 16 Almost eve 17 track I raced at, at no, there is no racin 18 Jersey, Delaware, Mar 19 it important for me t 20 If you can 21 22 A Illinois,

23

24

25

others.

those states?

wctb

You shippe

436a

Karlinsky - cross

362

We have certain peculiar traditions don't allow hearsay.

t precluded me from giving a hearsay

you specifically mentioned Florida,

. Could you tell us the various states

ally testing my memory where I haven't this is over a period of fifteen years. remember the states?

you the major states if they are

ry major Eastern state that had a race
one time or another: Maryland, Virginia -g in Virginia -- Kentucky, Florida, New
yland, Massachusetts, New Hampshire. Is
o go on?

Michigan, Ohio. I am sure there are

d your horses to all those tracks in all

24

25

363

crowds and the people in the area. They run a well balanced

meet that does not vary substantially from the meets at

stakes, and they get virtually the same horsemen who come and race there. The conditions are pretty much alike. There is no disparity, there is no feeling of "I don't want to go there because of extraordinary expenses," because the opportunities to win, the opportunities to carry on your business and profession, are provided for. These distinguish themselves from Saratoga, like black distinguishes itself from white.

THE COURT: Do you race those too?

I don't believe I have ever raced at Ak-Sar-Ben. I have been there, I have attended the meetings, I have seen the races there. I have shipped horses to Atlantic City.

Q I would like to ask you in connection with your examination to which Mr. Hyde referred whether just prior to the questions which he read to you these questions and answers were put to you, and I am talking about page 86.

A Excuse me, counselor, I am really a little bit hard of hearing, so if you will help me --

THE COURT: He has a lot of competition with the noise here besides.

Q Mr. Karlinsky, I read to you beginning at page 86 of the deposition that Mr. Hyde just read to you, and I ask you whether these questions and answers were also made:

21 22

1

3

4

5

6

7

8

9

10

11

12 13

14

15

16

17

18

19

20

22

23

24 :

25

"Question: Do you know of any other owner or trainer who sought stall space that was refused stall space on the grounds that stalls had to be kept vacant?

"Answer: Only by hearsay.

"Question: To your direct personal knowledge have stalls or barns ever been kept vacant or reserved for the future use of any defendants?

"Answer: Yes.

"Question: Which ones?

"Answer: Stalls at Belmont. You want me to recollect the number of the barns?

"Question: No, but I would like you to tell me how you know that of your own direct personal knowledge and what the circumstances were.

"Answer: Because I entered the gate, the training gate, during the early periods of the year and late periods of the year.

"Question: What years are these?

"Answer: These are the years during the sixties, all the sixties, and drove past vacant barns and inquired of the guards and inquired of the people at the track and inquired of the clockers and inquired of the other trainers.

"Question: What did you inquire about?

"Answer: Why the stalls were vacant; why the barns

Karlinsky - redirect

1

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Then the question that Mr. Hyde asked you about personal knowledge and so on.

Those questions and answers were as Mr. Hyde read to you. Do you recollect the questions and answers I just read to you?

A Yes, of course. I recollect them all. I don't recollect them in any particularity -- that was a year and a half ago.

THE COURT: But you remember being questioned on those general areas?

THE WITNESS: That is right.

Q I want to repeat some of the questions as a preliminary to what Mr. Hyde just asked you:

"Question: To your knowledge have stalls and barns ever been kept vacant or reserved for the future use of any owners or trainers other than the defendants?"

THE COURT: That is just repeating?

MR. MOSS: He just asked that but I want to use that to lead into another one.

THE COURT: All right.

Q "Answer: I have no personal knowledge.

1

about that?

3

4

5

6

7

8

9

10

11 12

13

14

15

16

17

18

19

20 21

22

23

24

25

"Question: Do you have any hearsay knowledge

"Answer: Yes."

MR. HYDE: I object to any further reading. I think there comes a time when the hearsay testimony --

MR. MOSS: May I read just the next question and then I will answer that?

THE COURT: Yes.

"Question: What is it?"

MR. MOSS: Now, it is true that objections and exceptions to a deposition are reserved. But those are objections I may have to his questions. In other words, when he has asked for the background of this, he cannot object to a question which he himself has asked.

THE COURT: Wait a minute. What he said in the deposition is wholly irrelevant and immaterial unless it qualifies something he says here. The mere fact he said it in the deposition -- if you want to ask him the same questions here, I will rule on it -- may be useful to Mr. Hyde but has no relevance to you.

MR. MOSS: It is my understanding that if Mr. Hyde picks out a certain point of this which he considers relevant I am then permitted to go --

THE COURT: If it qualifies his answer, what he

1	wctb Karlinsky - redirect - recross 368
2	brought out on direct or cross, whatever it was, that he had
3	no personal knowledge.
4	MR. MOSS: And then Mr. Hyde's office, whoever
5	conducted the examination, said, "Give me your background of
6	hearsay knowledge."
7	THE COURT: We aren't interested in his background of
8	hearsay knowledge, what Mr. Hyde's office may have been
9	interested in then, but I am not now.
10	MR. HYDE: Your Honor, for discovery purposes,
11	hearsay is admissible because it may lead to sources of
12	admissible evidence. That does not make the question and
13	answer admissible on trial.
14	MR. MOSS: I have no other questions.
15	RECROSS-EXAMINATION .
16	BY MR. HYDE:
17	Q Just one further question or two on Saratoga.
18	Mr. Karlinsky, will you agree with this statement
19	A I am sorry, I can't hear you. Would you come a
20	little closer?
21	Q "Saratoga is the traditional home of thoroughbred
22	racing, not only for New York but for the nation"?
23	A Would I agree with that?
24	Q Yes.
25	A In what sense, sir?

Karlinsky - recross

- Q Do you agree that that is a true statement?
- A No, I don't agree.
 - Q You don't.

A I think the Kentucky Derby might qualify just as equally as well as the Belmont stakes, as the Capistrano Handicap.

THE COURT: Where is that?

A As the meeting at Keeneland -- this is the Santa Anita -- as the meeting at Keeneland, which has all the tradition of racing.

I think that specifically alludes to the opinion that the Jockey Club has of its own tracks in those areas. I don't think that talks for me. I don't think that talks for 98 percent of the horsemen who race their horses throughout the United States. It talks for a select group of people who have been partying there for a hundred years.

- Q Would your opinion be changed if I told you that that statement was made earlier this year by the Governor of the State of New York, Malcolm Wilson?
 - A No, it wouldn't change at all.

MR. HYDE: No further questions.

MR. MOSS: No further questions.

(Witness excused.)

MR. MOSS: If your Honor please, with the

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

exception of statistical testimony, the nature of which I began to describe to you yesterday, and which we may avoid depending upon the conversation with Mr. Hyde now, that for the time being is our case. The suggestion was made that the statistical testimony which was introduced at another trial be incorporated by reference, so to speak, into this one to avoid waiting for the people to come back, and so on.

But there is one other problem, which I also discussed with Mr. Hyde. The damages which we are going to ask on behalf of these individual plaintiffs will be calculated upon this basis: The bookkeeping reports offered by the defendants indicate that during these years they won a certain amount of money, Mr. Karlinsky did and Mr. Jacobs did. We are taking the racing commission's public figures as to the purses paid percentagewise at Saratoga, that is, purses paid in relation to the handle of the individual track at Saratoga and at Belmont and Aqueduct. We are saying that to the extent to which Saratoga paid more than the average purse, say 3 percent allocated by the legislature, and Aqueduct and Belmont paid less, the damages of these individual plaintiffs are calculated on the basis, for the sake of argument, if Saratoga paid 3.5, that that extra .5 percent that was paid out at Saratoga must be paid back to the horsemen who raced at Belmont and Aqueduct; that whatever the percentage --

1 wctb

suppose it was .5 or whatever it is -- that that should be added to their particular share of the winnings which their bookkeeping reports showed, as their damage in this case.

It appears that there is a mathematical calculation involved there, with no dispute as to the figures we are going to use. We are going to use the racing commission's figures. It will take a little time to do that. If this is agreeable to Mr. Hyde -- he has not expressed any agreement or disagreement with all this as yet -- we will sometime during the coming week submit those figures to your Honor, just the mathematics of them, after they have been approved by Mr. Hyde, naturally. On that basis we might stipulate with respect to the rest of the case if that is agreeable to Mr. Hyde.

THE COURT: Actually, you are not conceding the validity of his theory.

MR. MOSS: Of course not.

MR. HYDE: If we check the arithmetic and the arithmetic is correct, we would agree to that, without of course any prejudice to our position.

MR. MOSS: Of course he does not agree to the validity of our theory at all.

THE COURT: That seems sensible.

MR. MOSS: Can we stipulate as to the testimony

1	wetb 372
2	with respect to the accountants
3	MR. HYDE: Can't we do it later? If you want to
4	offer certain pages
5	MR. MOSS: I am going to offer the whole thing,
6	the direct examination of Mr. Fine together with the cross-
7	examination, just as if he came to the trial. In other words,
8	say this was testified to at the other trial. Here it is.
9	That is what I understood you were saying to me yesterday
10	afternoon.
11	MR. HYDE: I did not understand that.
12	MR. MOSS: With the cross-examination. It is
13	entirely up to you. I am not pushing this. We were talking
14	about this yesterday.
15	THE COURT: You called a witness in another trial
16	and you cross-examined him?
17	MR. MOSS: Yes.
18	MR. HYDE: As I recall, I did not try the other
19	case, your Honor; my associate, Mr. Fine, did. I take it
20	there is also the statistician whose testimony
21	MR. MOSS: Everybody, with the cross-examination.
22	MR. HYDE: Just may I have a moment, your Honor.
23	MR. MOSS: It is entirely up to you.
24	THE COURT: I will take a five-minute recess.
25	(Recess)

7 8

 MR. HYDE: Your Honor, I have no objection to this arithmetical computation of damages that Mr. Moss proposed. However, the testimony that these individuals gave before Mr. Justice Stecher comprises more than 300 pages in length and contains all sorts of material, and I do not want to agree to having testimony of that volume just put in this record without having the witness personally before your Honor and available for cross-examination by me with respect to the particular issues that may be here in this case.

MR. MOSS: Under those circumstances I think your Honor indicated that we might resume on Monday afternoon at 2 o'clock. Is that the way we left it?

THE COURT: Yes. And you said it would take about an hour.

MR. MOSS: Yes. I don't think this will be that long. I agree with Mr. Hyde to this extent: that I thought that the volume in that was greater than it needed to be.

MR. MOSS: No, no. This goes to use of stalls and who got them and the percentages and things of that kind.

THE COURT: Are you in a position, as you thought you were yesterday, to proceed with your defense subject to being able to reopen after, if something surprising develops in this?

. 16

MR. HYDE: Yes, your Honor. My present position
is not to call any witnesses, because, as your Honor is
aware, six of our people were called by the plaintiffs, and I
think that we have elicited through the examination of those
people what will be our case. Of course, I reserve my rights
in case something new should turn up in the further examination of witnesses.

There are certain exhibits which I do not believe require any witness that we would like to put in evidence.

I can do that now.

THE COURT: Why don't you do that now?

MR. HYDE: I have these pre-marked, your Honor.

First we have gathered together a collection here of all of the various rules and regulations pertaining to racing in the thirty states of the United States that have program racing. I don't want to burden the record with that volume of material, because portions that I rely on are simply those portions which recognize the Jockey Club as an official body for various purposes, such as the registration of thoroughbred horses, the registration of colors, stable names, and so forth.

I think, in fact, your Honor could take judicial notice of this, because it is part of the law of the various states. But since this material is not readily available, I

trust, in the library upstairs, in order to aid your Honor's judicial notice we have gotten together excerpts from all of these various rules and regulations where the Jockey Club is referred to and recognized as an official body. I would like to present that as Exhibit C.

THE COURT: Have you seen that?

MR. MOSS: No, I have not.

MR. HYDE: We can make copies. We have extra copies here for Mr. Moss.

MR. MOSS: May I ask the purpose and relevancy of this before I look at it? I may not have any objection, depending on what it is put in for.

MR. HYDE: It is simply put in, your Honor, to show that the functions performed by the Jockey Club, which are to some extent alleged in the complaint, are in fact recognized in the law of the states as being, let me say, official duties in a sense, in that the various states rely upon the Jockey Club to perform these functions, such as registration of thoroughbred horses.

THE COURT: How is it relevant? The New York legislature recognizes the Jockey Club or doesn't it?

MR. HYDE: Oh, yes. New York is one of these states. We simply go beyond New York and say not only New York but thirty states, all of the states in which thoroughbred

SOUTHERN DISTRICT COURT REPORTERS, U.S. COURTHOUSE

2

3

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

racing is conducted in the United States, recognize the Jockey Club as an official body. It is relevant only because the complaint seems to toss this in as one of its allegations of monopolization.

MR. MOSS: No, the complaint, your Honor, has really nothing to do with the right of the Jockey Club, in New York particularly, which we concede, to pass upon leases and stable names and colors and things of that kind, registration. The complaint does not say that at all. The complaint says that the Jockey Club conspired with the New York Racing Association to use the power which the New York Racing Association had to govern racing in New York to use it for their mutual benefit as individuals. The Jockey Club joined in this, as Jockey Club, in their other capacity as horsemen. I certainly don't know the relevancy of it. If New York gives certain powers, that could conceivably be relevant, I don't know how, because it was not the exercise of those powers which we criticize or which we base our claim on. I just don't think it is. I don't think any great harm would be done to us, quite truthfully, by having them around, but I don't see that they are especially relevant.

THE COURT: I don't quite see that they are relevant. They are sort of character testimony.

MR. HYDE: The problem is this, your Honor: here

we have an amended complaint which alleges in paragraph 5, where it describes the Jockey Club, and I quote: "It purports to act in a supervisory and administrative capacity in matters dealing with racing, including but not limited to record-keeping, transfer, sales and leasing of horses and adoption and use of stable names, and it asserts the right to pass judgment upon, approve or disapprove such transactions, and to collect fees in connection therewith."

So what I am showing is that what it purports to do and the rights it asserts, which are alleged here in an anti-trust complaint, are duties, functions, recognized by law throughout the United States.

MR. MOSS: In that connection the rules of the
New York State Racing Commission plus the laws of the State
of New York would conceivably be relevant. But why the rules
of these other states?

THE COURT: Yes. I don't really see that.

MR. HYDE: I think this case goes beyond New York, your Honor. This is an antitrust case under the federal antitrust laws. This is not brought under the laws of New York.

THE COURT: But they assert malfeasance in New York, as I understand their complaint.

MR. MOSS: That is correct, your Honor.

7 8

MR. HYDE: I think it is still relevant in that -MR. MOSS: If your Honor please, I will tell you
what our practical objection to this really is. We all
understand that regardless of who wins or loses this case
that this is going to be a record which is going to have to
be printed on appeal to a large extent. To put that kind of
business in is staggering.

MR. HYDE: I am not putting that in. I am only putting in the excerpts.

THE COURT: Only the excerpts.

MR. MOSS: It is the same thing. I don't think that they are harmful, but neither are they relevant, and normally I say, well, all right, but I will just stand on the objection here.

THE COURT: Of course, it really doesn't make any difference from the appellate point of view, because if I exclude them --

MR. HYDE: Refer to them anway.

THE COURT: You can refer to them anyway. But I don't really see it. As I understand the complaint, it only alleges malfeasance in New York State, and therefore that such malfeasance if it occurred is legalized elsewhere I don't see as relevant.

MR. HYDE: I think the actual complaint does go

beyond New York, because it does frequently talk in terms of New York and certain other states.

THE COURT: Do you contend the malfeasance goes beyond New York?

MR. MOSS: No, I do not, sir.

THE COURT: To the extent that your complaint suggests that, you narrow it.

MR. MOSS: That is right, sir.

MR. HYDE: My position is, your Honor, as you know
I feel that we can use these in any event and that I only
offer them as a matter of convenience. If your Honor does
not feel that you need them for purposes of this case, we
won't press the point.

THE COURT: Especially since he has now narrowed the complaint.

MR. HYDE: All right, we won't press the point.

We also had marked as Exhibit D for identification certain excerpts from the Code of Federal Regulations, together with a letter from the United States Department of Agriculture to the Jockey Club, which officially recognizes the Jockey Club as a registrar of thoroughbred breed for purposes of entry of thoroughbred animals into the United States. Again this is an instance of official recognition of the Jockey Club as a depository of --

MR. MOSS: If he wants to use documents like that, he can attach them to his brief, if your Honor please. There is no point to putting them into the record, because they are not properly part of the record. They are not relevant and admissible evidence. If he wants to make arguments about these things, he can attach these things to his brief and argue from them. Why clutter the record with all these things?

MR. HYDE: I agree. I can certainly do that, your Honor.

THE COURT: There is testimony to that effect. It is uncontradicted. So I don't see that you need it.

MR. HYDE: Next, your Honor, I would like to offer, as exhibits, Defendants' Exhibits E through M, recent statistics prepared by the plaintiff Horsemen's Benevolent and Protective Association for the years 1972 back through 1965.

MR. MOSS: I don't think I have any objection to these. May I have the purpose for which they are being offered?

MR. HYDE: The purpose is to lay a foundation for the next two exhibits, and let me offer those now. As Exhibit N for identification I would like to offer a compilation that we have prepared from the statistics of the Horsemen's Benevolent and Protective Association, showing in

each of these years, 1972 back through 1965, the twenty U. S. race tracks which have the highest percentage of total moneys paid to horsemen allocated to stake races. Your Honor has heard testimony here about the amount of stake races in proportion to other races at New York Racing Association tracks, particularly at Saratoga. These figures which we have taken from the plaintiffs' own statistical computations in these years show, for example, that in the year 1972 Saratoga paid out only 23.8 percent of its total moneys paid to horsemen from stake races. This placed it No. 9 behind Hollywood Park, behind Santa Anita, behind Washington Park in Illinois, behind two other smaller tracks in California, behind Gulfstream, behind Belmont, behind Hialeah. We have done this for the various years.

MR. MOSS: I would object to that because the last statement Mr. Hyde gave is a clue to what we are talking about. He said that they paid out -- that Belmont, for example, where the testimony here indicates that the proportion paid out in stake races at Saratoga was infinitely greater than at Belmont.

MR. HYDE: These are the plaintiffs' own statistics.

MR. MOSS: Wait a minute. And they are being misused. They are being misused. In other words, if Belmont runs for 600 days and pays out a certain amount of money in stake races, and if Saratoga runs for 24 days --

2 1

THE COURT: He says percentage.

MR. HYDE: Yes, your Honor, exactly. The totals are given here. There is no question. Saratoga pays out -- and this is 1972 -- a total of \$585,000 in stake races.

Belmont pays out \$1,795,000. But when you convert those into percentages, you find that Belmont is paying 24.5 percent in stake races while Saratoga is paying 23.8 percent, less than Belmont.

MR. MOSS: If your Honor please, I think that any information or testimony to this effect must be subject to cross-examination.

THE COURT: This is a computation. I will accept it, subject to your being able to examine it over the weekend and dispute it.

MR. HYDE: Fine, your Honor.

MR. MOSS: All right.

MR. HYDE: The next exhibit, Defendants' Exhibit P, is a further computation made from the statistics of the Horsemen's Benevolent and Protective Association in which we have added up their figures to show the percentage that the NYRA tracks constitute of the total U. S. market. We have used the percentage of purses paid by race tracks, in the first instance in the entire United States, and secondly in the Eastern United States we have stated on here which states

we have used.

2 ...

These show, for example, that in 1972 the NYRA tracks constituted 11.5 percent of the total U. S. market and 23.2 percent of the Eastern U. S. market. We go back through 1965, again using the plaintiffs' own statistics in order to make this computation. I offer this subject to the same opportunity of the plaintiff to check the figures over the weekend.

MR. MOSS: If your Honor please, it is not just the figures. We have heard too much testimony here about the varying conditions which might affect this. We have heard, for example, that certain tracks at certain times pay higher stake percentage and higher purse percentages, and other tracks at other times paid lower purse percentages; whereas the overall average over the year that this track pays sometimes comes into question.

In the second place, we have also heard that there are individual circumstances which affect in a given case the number of stakes and the number of overnights, Saratoga being one as compared to Belmont and others.

I think that these figures, which are going to be used as a basis for an argument, must be subject to cross-examination --

THE COURT: I have told you that you have the

wctb 384 weekend to go over them. If you find there is something wrong 2 with them, you can challenge them. 3 MR. MOSS: All right. 4 THE COURT: They are received subject to motion to 6 strike. 7 (Defendants' Exhibits E, F, G, H, J, K, L, M, N, 8 and P were received in evidence.) 9 MR. HYDE: Those are all the exhibits we have, 10 your Honor. MR. MOSS: May I call for the production at this 11 time of the minutes of that November 12 or 13 meeting that 12 I had asked to have them bring here today? 13 14 MR. HYDE: Yes. Your Honor, before we do that, there is one other thing. We got the certificate of 15 incorporation and the bylaws, which were mentioned yesterday, 16 and I would like to have those put in as the next two 17 defendants' exhibits. 18 19 MR. MOSS: No objection. THE COURT: That is of the Jockey Club? 20 MR. HYDE: That is of the New York Racing 21 Association, which was then known as the Greater New York 22 Association, there having been a change in name to its 23 present name. 24

XX

X

25

(Defendants' Exhibits Q and R were received in

1	459a wctb 385
2	evidence.)
3	THE COURT: Are these the minutes of the meeting
4	when the new man was appointed?
5	MR. MOSS: Yes. That was the date. There is no
6	mention of him in the minutes, actually. I want principally
7	to show that
8	MR. HYDE: We will stipulate to that. I was going
9	to object to the introduction of all of the minutes on the
10	grounds that there are many confidential and irrelevant
11	matters. If all that is wanted
12	MR. MOSS: Stipulation that at the meeting Mr.
13	Trotter's replacement by Mr. Noe was accomplished, at that
14	meeting of the board of trustees, and Mr. Phipps was present
15	and voting.
16	MR. HYDE: We agree.
17	THE COURT: You so stipulate. He voted for the
18	replacement?
19	MR. HYDE: I believe he so testified, your Honor,
20	yes.
21 .	THE COURT: He said he doesn't remember. If he
22	was there, he must have.
23	MR. HYDE: Right. I think the testimony was that

THE COURT: All right. That is so stipulated.

it was a unanimous vote, and he was there.

1

3

4

5

6

8

9

10

11

13

14

15

16

17

18

19

20

22

23

24

25

Just for the purpose of my education, while the case is still fresh in my mind, what do you plan to establish on Monday?

MR. MOSS: On Monday I am going to bring in the figures which I began to describe to your Honor yesterday; that people submit stall applications, and a great many of them are turned down; that the percentage of turndowns as compared to stalls asked for is substantially different between trustees and Jockey Club members and nonmembers of the Jockey Club and trustees, and that that takes a turn when, for example -- again I don't have the numbers before me at the moment, but if I may just take hypothetical figures -let us say for the sake of argument in the case of Jockey Club members at Belmont and Saratoga 85 percent of their requests are granted as compared to, say, 60 percent of the requests of other people. When these stall applications are in for Saratoga, suddenly 92 percent of the Jockey Club members' applications are granted as contrasted to about 50-some-odd percent of other people's applications being granted.

THE COURT: And that is it.

MR. MOSS: That is in general.

We have some other testimony which we may also put in, but that we are going to decide over the weekend as to how

1

2

5 6

8

7

9

12

11

14

13

15 16

17

18

19

20

21

22 23

24

25

far we want to carry the statistical thing as to the use of the stalls. Quite frankly, we have had an argument among ourselves as to the relevancy of that in this particular case as contrasted with other cases in which we have that testimony. We may or may not put that in as well on Monday.

THE COURT: All right. Then Monday at 2 o'clock.

MR. HYDE: Thank you, your Honor.

THE COURT: You say this will be roughly an hour?

MR. MOSS: I would guess that, your Honor. It depends on the length of cross-examination, of course. I will say that one of the things that interfered with my conception of the timing of this case in any event was that with these witnesses there was substantially more cross-examination last time, there had been a mistrial, and I assume that will continue on Monday.

THE COURT: Let me do this. Leave your telephone numbers. If I get started with a trial on Monday morning, I may call you and postpone it to 3 o'clock. If I don't get started, 2 o'clock is more convenient for everybody. If I get started with a trial, I will go to 3 and then adjourn that trial rather than keep them around and bring them back after. Give your telephone numbers. Otherwise I will see you Monday at 2.

(An adjournment was taken.)

	462a
1	1 mktb Noe - redirect 388
2	x
3	Raymond E. Karlinsky, Howard Jacobson, : Harry M. Hatcher, and Horsemen's
4	Benevolent and Protective Association, : Inc., etc.,
5	
6	Plaintiffs,
7	-against-
	The New York Racing Association, Inc.,
8	Jockey Club, James C. Brady, George D. :
9	Widener, John C. Clark, etc.,
	Defendants.
10	
	x
11	
12	New York, N. Y.
	July 15, 1974 - 3 p.m.
13	THE CLERK: Karlinsky v. New York Racing
14	Association.
15	MR. MOSS: Your Honor, I have recalled Mr. Noe for
16	just one or two questions; now we will go ahead.
17	
18	KENNETH NOE, having been previously sworn,
19	resumed the stand.
20	THE COURT: You are still under oath.
21	THE WITNESS: Yes, sir.
22	REDIRECT EXAMINATION
23	BY MR. MOSS:
24	Q Mr. Noe, in deciding whether or not to use stalls,
25	is it true that one of the things one of the most important

. 1	2 mktb Noe - redirect 389
2	things which you considered was the extent of their
3	participation?
4	A One of them, yes, sir.
5	Q And what do you mean when you say "participation"?
6	A The ones that run their horses.
7	Q The horses which are there have raced a lot, would
8	you call it that, or a satisfactory amount or something like
9	that?
10	A Yes.
11	Q And the amount of that participation is one of the
12	things which you consider?
13	A Yes.
14	Q Is it also a fact, Mr. Noe, that the object of the
15	average horseman is to get as many stalls for his horses as
16	he can; is that correct?
17	A Well, Mr. Moss, that will vary with the caliber
18	of the horses, but as a general rule, yes.
19	Q As a general rule the more starts the more chance
20	he has of winning money, is that correct?
21	A Yes.
22	Q So one of the things when people come to you and
23	say "Why don't you write that kind of a race or this kind of
24	a race," the idea behind that is to get an extra start for
25	their horses?

	Noe - redirect 390
2	A Most of the time well, all the time I deal with
3	the trainers, and he submits on his stall application the
4	type of horses and how he desires to run long, short or
5	whatever. It may be an allowance or claiming, and then it is
6	my job to get them from different groups together and try to
7	write races so that it will be competitive races.
8	Q But a trainer now and then says, "Why don't you have
9	more of this" or "Why don't you do more of this"?
10	A Yes, sir.
11	Q And his object is to get more starts for his type
12	of horses, whatever kind of horses he has?
13	A Naturally.
14	Q Is there a substantial number of people racing at
15	Saratoga who do not normally race at Aqueduct and Belmont?
16	A No, sir.
17	Q Is there a different crowd there?
18	A No, sir. I have, I believe since I have been in
19	New York, only about four outfits maybe five. The rest of
20	them normally come from Aqueduct and Belmont.
21	THE COURT: Four or five outfits that do not go to
22	Aqueduct and Belmont?
23	THE WITNESS: Yes.
24	Q Could you name them.

A Well, I can name them by trainers. Henry Clarke,

Are you influenced in giving them stalls at

A

Q

25

No, sir.

Saratoga by reason of whether or not they race a great deal at Belmont and Aqueduct?

A No. The reason I give them stalls at Saratoga is the reason I give anybody stalls, because they have real quality horses. It is a fact that there are a lot of handlers that don't want to go to Saratoga because of the expense.

MR. MOSS: I have no more questions.

THE COURT: As I correctly remember your testimony, it was to the effect that you never discussed with any of the trustees of the racing association the allocation of stalls?

THE WITNESS: No, sir. My job is to allot these

stalls.

THE COURT: You never discussed that with any other trustees?

THE WITNESS: They might call and ask me if so-andso got stalls but I can't remember anyone asking me.

THE COURT: And at the time you were negotiating for the job or they were trying to get you, was your policy in allocating stalls discussed in any way, shape or form?

THE WITNESS: No, sir. The only stipulation that I made was that I allocated all the stalls.

THE COURT: And nobody could fool around with that?
THE WITNESS: Yes.

THE COURT: Did anybody object to that?

1	6 mkt	467a Noe - recross	393
2		THE WITNESS: No, sir. That is part of the	
3	contr	act.	
4		THE COURT: All right.	
5	RECRO	OSS-EXAMINATION	
6	BY MR	A. HYDE:	
7		Q Mr. Noe, I believe you testified before become	ing
8	Racin	g Secretary of the New York Racing Association track	ks you
9	were	Racing Secretary at Hialeah.	
10		A Yes, sir.	
11	(Q And you last served there in 1971, and the	
12	begin	ning of 1972?	
13		A Yes, sir.	
14	(Q Could you tell us	
15	1	A I came to New York in 1972 and allocated the s	talls
16	in 197	71.	
17		Q At Hialeah?	
18	,	A Yes, sir.	
19	C	Now, when you were serving as Racing Secretary	at
20	Hialea	ah, could you tell us with respect to your 1971 allog	ation
21	what p	percentage of the stalls applied for you gave to tra	iners

A Well, Mr. Hyde, I sent and got those stall

who trained exclusively for members of the Jockey Club and

what percentage of the stalls applied for you gave to other

22

23

24

25

members?

During the course of a meeting is the trainer free

Q

Noe - recross

2 to

to make substitutions of horses?

A Oh, yes, that happens on a daily basis. It is not -well, it is not as flexible in others, such as Hialeah, as in
places such as New York. Again we only have 40 days for the
winter season. They don't fluctuate. There are some horses -there are horses that go in and out.

Q Specifically with respect to the stalls at the New York Racing Association tracks, there are substitutions made by the trainers from time to time?

A Oh, by every trainer, yes, sir.

Q I think you said that in response to one of Mr.

Moss' questions that the number of starts that a horse makes
depends on the caliber of the horse. Could you tell us what
you mean by that?

A Well, a cheaper horse -- and when I speak of "cheaper horse," a horse from, say, \$20,000 down to \$5,000, he will run more often than a better horse -- than an allowance horse or a stake horse. Naturally they are not used as much because they have more earning power in allowance races because the purses are greater -- the same as it is at any race track.

MR. HYDE: I have no further questions.

FURTHER REDIRECT EXAMINATION

BY MR. MOSS:

Q Mr. Friedman, what is your business?

1	mktb	Friedman - direct 397	
2	A	I am a certified public accountant, partner in	
3	the firm o	of Paneth, Haber & Zimmerman.	
4	n	And how long have you been an accountant, Mr.	
5	Friedman?		
6	A	Seventeen years.	
7	Q	In connection with this case at the New York	
8	Racing Ass	sociation offices were certain records turned over	
9	to you for	your inspection?	
0	A	Yes, sir.	
1	Q	Will you describe those records, please.	
2	A	There were applications for the stalls for each	
3	trainer, a	and there were bookkeeping records. Basically those	
4	were the m	main records that were turned over to us.	
.5	Q	Was there any record showing the number of stalls	
6	granted to	each trainer?	
7	Á	Yes, on the application.	
8	Q	On the application itself that was shown?	
9	A	The number of stalls granted to each trainer.	
0	Q	For what years did you examine those stall	
1	applicatio	ns?	
2	A	1967, 1968 and 1969.	
3	Ŏ	And did you examine all the stall applications for	
4	those year	s?	
5	Λ	Well, yes, to an extent. There were applications	

5

6

7

8

9

10

11

12

13

15

16

17

18

19

20

21

22

23

24

25

we examined them all. We examined them all, yes.

Q Did you find that certain of these applications were made by trainers who were trainers exclusively for Jockey Club members?

A Yes.

Q And did you find that certain of those that were not trained by Jockey Club trainers?

A Yes.

And was there a third group of trainers, public trainers who trained for some Jockey Club members and some non-Jockey Club members?

A Yes.

THE COURT: Depending on which group it came into?
THE WITNESS: Yes, it was ascertainable.

Q Did you make lists of the Jockey Club trainers for those three years?

A Correct.

Q And you checked off against those lists of Jockey Club membership for 1967, 1968 and 1969 in making this determination, is that correct?

A That is correct.

Q In your examination did you compare the stalls requested as against the stalls granted with respect to Jockey Club members, trainers who were training for Jockey Club

1	mktb Friedman - direct 399
2	members, and those granted to trainers who trained for non-
3	Jockey Club members?
4	A Yes.
5	Q And what did you do with respect to the trainers
6	who did both?
7	A Mixed we ignored them.
8	Q You ignored those. You compared those exclusively
9	Jockey Club against the others?
10	A Non-Jockey Club.
11	Q How many stall applications did you examine for
12	each of those years? Let me put it this way, stalls in
13	1967 to 1969, the stalls requested by members only.
14	A For members there were 1,786 stalls requested.
15	Q And of the stalls requested how many were granted?
16	A 1,567, which is 88 percent.
17	Q 88 percent of their requests were granted?
18	A Correct.
19	Q Now with respect to nonmembers, how many stalls
20	were requested?
21	Λ 13,120.
22	Q Stalls assigned?
23	A 9,627.
24	Q And the percentage granted there was what?
25	A 73 percent.

	474a
1	mktb Friedman - direct 400
2	THE COURT: 88 against 73?
3	THE WITNESS: That is correct.
4	Q Now for any of those years did you make a
5	comparison with Saratoga?
6	A For 1968 we did a comparison with Saratoga.
7	Q With respect to Saratoga for the year 1968 which
8	you compared, how many stalls were requested by members?
9	A 250.
10	Q And how many stalls were assigned to members?
11	A 234.
12	Q And what percentage of the stalls requested was
13	granted to them?
14	A 94 percent.
15	Q At Saratoga?
16	A At Saratoga, yes, sir.
17	Q Now with respect to nonmembers, how many stalls
18	were requested?
19	A 1,594.
20	Q And how many were granted?
21	A 931.
22	Q And the percentage?
23	A 58 percent.
24	MR. MOSS: For convenience sake, your Honor, I

have that in summary form.

MR. MOSS: The same percentage breaks the things

24

25

down to numbers.

Friedman - direct

stalls assigned?

1

A Yes.

4 5

And on 250 nonmember trainers for average of horses starting?

6

Yes. A

7

8

And based on 955 nonmember trainers for stalls assigned and on 250 nonmember trainers for average of horses starting, is that correct?

9

10

That is correct.

11

12

Would you please explain to us the difference in your figures, one of which says "ratio of horses starting to stalls assigned" and "ratio of starts to stalls assigned."

13 14

Will you explain that to us.

15

16

17

18

19

20

21

22

23

24

25

account of the starts for every horse. If a horse started two or three or four times it only counted as one. That would be the ratio of starts -- that would be the actual starts -- how many horses started. If one horse started four times, that would be four. That would be the explanation.

Yes. The ratio of horses starting would be the

ratio of starts to stalls assigned you are talking about the number of horses that started races, that raced out of those stalls, is that correct?

Q In other words, when you are talking about the

THE COURT: No. You are talking about the number

53 percent.

		479a
1	mktb	Friedman - direct 405
2	Q	And for nonmembers what was the ratio of horses
3	starting to	stalls assigned?
4	Α ,	81 percent.
5	Q	Now with respect to member owners, what was the
6	ratio of st	carts to stalls assigned starts of any kind?
7	A	1.58.
8	Q	Now with respect to nonmembers what was the ratio
9	of starts	co stalls assigned?
10	A	2.97.
11		MR. MOSS: This is a summary as well, your Honor.
12		THE COURT: Mark it.
13		(Marked Plaintiffs' Exhibit 26 for identification.)
14	Q	Did you also compile some figures with respect to
15	the horses	started by the various trainers? '
16	A	Working on an average per trainer, yes.
17	Q	With respect to member owners, the number of horses
18	starting pe	er trainer what was the assigned average?
19	Λ	12.62 per trainer.
20	Q	And for nonmembers?
21	A	7.75.
22	Q	Was that based on an actual count or sample?
23	A	The nonmembers was based on a sample.
24	Q	Of how many percent?
25	A	Well, the sample was 25 percent.

X

plaintiffs in this action?

1	mktb	Friedman - direct 4	07
2	A	Yes, sir.	07
3	Q	That is Mr. Karlinsky and Mr. Jacobson?	
4	A	Yes, sir.	
5	Q	For the years 1965 to 1970 how much did each o	f
6	them earn,	Mr. Friedman?	
7	A	Total?	
8	Q	Well, you can give the totals. If you want to	
9	break them	down later, you can if you are asked. In the	
10	meantime,	give us the totals.	
11	A	Mr. Karlinsky, for the years 1965 to 1970 inclu	usive,
12	earned \$72	2,625 in purses.	
13		Mr. Jacobson, for the years 1965 to 1967, 1968	and
14	1969, earn	ed \$229,830.	
15	Q	Did you compare for each of those years the pur	rses
16	paid at Sa	ratoga for purposes of deciding to what extent t	they
17	varied fro	om the total average purse distribution to the	
18	three trac	ks?	
19	Λ	Yes, sir.	
20	Q	Did they differ?	
21	Α	Yes.	
22	Q	Would you please describe that.	
23	A	For the purses paid at Aqueduct and Belmont for	
24	the years	1961 to 1970 as a percentage of the total handle	١,
25	the average	e was I have it on an annual basis but I woul	.d

25

482a Friedman - direct	408
o us on an annual basis.	
: For each year.	
SS: For each year.	
2.15	
2.03.	
2.01.	
2.07.	
2.10.	
2.11.	
2.58.	
2.59.	
2.57.	
was 2.57.	
all percentages of the purses to the	ie
ga, for the same years:	
5.24.	
5.30.	
5.51.	
5.57.	
5.90.	

1966 was 5.58.

1967 was 6.46.

1	mktb Friedman - direct 409
	409
2	1968 was 6.45.
3	1969 was 6.82.
4	And 1970 was 6.55.
5	Q And did you make a computation of how much would
6	be needed to be taken from Saratoga and paid to the people
7	who raced at Belmont and Aqueduct to make the purse
8	distribution even, a common purse distribution for all tracks?
9	A Yes, sir.
10	Q Would you give us those figures, please.
11	A The dollar figures?
12	Q All right, and the percentage, if you have it,
13	or give us both.
14	THE COURT: Give the percentage for each.
15	THE WITNESS: Well, there is no real well, all
16	right.
17	THE COURT: Give us what you have got.
18	THE WITNESS: All right.
19	A 1961, the excess amount paid at Saratoga and
20	by "excess" I mean the difference between the actual purse
21	paid and the purse computed based on an average for all
22	three tracks for 1961 was \$749,141.
23	For 1962 it was \$813,410.
24	1963 was \$878,013.
25	1964 was \$945,704.

	484a
1	mktb Friedman - direct 410
2	1965 was \$1,046,116.
3	1966 was \$981,756.
4	1967 was \$1,173,489.
5	1968 was \$1,190,462.
6	1969 was \$1,279,299.
7	And 1970 was \$1,318,436.
8	Q What percentage would you use to add to the purses
9	earned at Belmont and Aqueduct to equalize those things, to
10	get a common purse percentage?
11	A Well again by year, to equalize 1961 you would have
12	to add 6.709 percent.
13	1962 was 7.186 percent.
14	1963 was 7.304 percent.
15	1964 was 7.067 percent.
16	1965 was 7.870 percent.
17	1966 was 7.363 percent.
18	1967 was 7.277 percent.
19	1968 was 6.995 percent.
20	1969 was 7.538 percent.
21	And 1970 was 7.240 percent.
22	Q Now if you applied those percentages to the amounts
23	won in those years by Karlinsky and Jacobson, what would you
24	come up with?
25	A The total?

4	Q	C	_	
4	o	״	а	

1	mk tb	485a Friedman - direct 411
2		
	Q	Well, all right, the total.
3	λ	That will take just a moment.
4	Ω	If you have it year by year we will take it.
5	A	I have it year by year.
6		For Mr. Karlinsky, for 1965 he was entitled to an
7	additional	\$1,444.93.
8		1966 was \$1,824.92.
9		1967 was \$245.96.
10		1968 was \$1,061.49.
11	Ω	That would be the amounts added to his winnings
12	for each of	f those years as you previously gave them?
13	λ	That is correct.
14	-	THE COURT: Is that all?
15		THE WITNESS: No, I have two more.
16		1969 \$700.28.
17		1970 \$118.37.
18		THE COURT: That is a total of?
19		THE WITNESS: I haven't totaled them.
20		THE COURT: What you are saying, I gather, is that
21		ky did not race at Saratoga?
22		THE WITNESS: I wouldn't know offhand. What I am
23	saying	
24		MR. MOSS: He testified that he did not, your Honor.
25		THE COURT: I assume that he did not race at

THE COURT: Then you have to have --

Yes.

Q

A

24

25

Do you have those actual figures, Mr. Friedman?

,	mktb	Friedman - direct 414	
1			
2	Q	Will you please give them to us.	
3		THE COURT: So complete the record on that.	
4		I am not making that as a serious assumption.	
5		MR. MOSS: I am a little weak on the mathematics	
6	thing, I a	dmit that.	
7	Q	Do the bookkeeping records submitted by NYRA show	
8	where the	money was won?	
9	A	Yes, which track.	
10		THE COURT: You can complete that.	
11		MR. MOSS: I will let that go for a minute.	
12	Q	Do you have those figures?	
13	Α	Yes, I have the numbers here. For 1969 Mr.	
14	Jacobson e	arned \$4,430 at Saratoga.	
15		THE COURT: It is a mathematical thing. You can	
16	write a le	tter on that.	
17		MR. MOSS: All right, forget it, then.	
18		No other questions.	
19		THE COURT: We will take a short recess.	
20		(Recess)	
21		MR. MOSS: If your Honor please, I am told that	
22	one or two	of these documents were not marked in evidence.	
23		THE COURT: Well, let us get them in.	
24	1	MR. MOSS: Here is a complete set.	
25		THE COURT: Complete the record on this. Take ou	t

1	mktb Friedman 415
2	of the figures that Mr. Friedman gave whatever contribution
3	there was to Aqueduct that came out of Mr. Jacobson's
4	winnings.
5	MR. MOSS: You mean Saratoga winnings.
6	THE COURT: Saratoga winnings.
7	MR. MOSS: Will you please mark these in evidence.
8	THE COURT: I am informed that 26 and 27 are not
9	marked in evidence yet. Let us get them all marked and in.
10	MR. HYDE: May I see them?
11	Your Honor, I have no objection in that these are
12	the same figures that the witness testified to.
13	MR. MOSS: Yes.
14	MR. HYDE: But I do not concede the validity of the
15	study.
16	THE COURT: I understand.
17	(Plaintiffs' Exhibits 26 and 27 were received in
18	evidence.)
19	MISS CAPLAN: And this should be marked as
20	Plaintiffs' Exhibit 28.
21	(Plaintiffs' Exhibit 28 marked for identification.)
22	MR. MOSS: I offer 28 in evidence.
23	THE COURT: Received.
24	(Plaintiffs' Exhibit 28 was received in evidence.)
25	MR. MOSS: Now they are all in.

1	mktb Friedman - cross 416	
2	THE COURT: You may examine.	
3	CROSS-EXAMINATION	
4	BY MR. HYDE:	
5	O Mr. Friedman, with respect to the figures shown	
6	on Exhibits 26, 27 and 28, do you have those before you?	
7	A I do. If you will identify them a little better	
8	for me what is the heading?	
9	Q I think I have a set here which I think are	
10	correctly marked.	
11	In each instance where you have come up with	
12	figures for the Jockey Club trainers, I believe you said the	at
13	that is based upon a 100 percent computation.	
14	A That is correct.	
15	Q In other words, you reviewed all of the	
16	applications followed by these so-called Jockey Club trainer	rs
17	A Yes.	
18	Ω And the bookkeeping records with respect to those	•
19	trainers?	
20	A Yes.	
21	Q You made your computation on the basis of 100	
22	percent sampling?	
23	A Correct.	

How many separate trainers are involved in that

24

25

Ü

study?

1	mktb	Friedman - cross 4	17
2	A	I don't recall offhand.	
3	Q	Do you have any approximation?	
4	A	20, possibly 25. I really don't know offhand,	
5	because we	were doing this by trainers. Our statistics w	
6	11	y trainers.	
7	Q	But I take it you were segregating trainers who	0
8	you say tr	ained exclusively for Jockey Club members	
9	A	That is correct.	
10	Q	and those who never trained for Jockey Club	
11	members.		
12	A	That is correct.	
13	Q	And you do not recall how many separate trainer	rs
14	there were	who	
15	A	Well, there were 71 trainers that we are talking	ng
16	about in the	hese three years.	
17	Q	71 trainers?	
18	A	Trainers. I thought you are asking me about ho	w
19	many Jockey	y Club members.	
20		THE COURT: No, trainers.	
21		THE WITNESS: 71 trainers.	
22		THE COURT: 71 Jockey Club trainers.	
23		THE WITNESS: 71 trainers exclusively for Jocke	y
24	Club member	rs.	

THE COURT: That is right.

	492a
1	mktb Friedman - cross 418
2	Q 71 different individuals that trained exclusively
3	for Jockey Club members?
4	A Not necessarily separate individuals, because this
5	was taken for three years.
6	O No, I want to know how many separate individuals
7	we are talking about.
8	A I don't know offhand.
9	Q You do not know approximately how many separate
10	individuals that would be?
11	A That would be a guess I really don't know.
12	Q When it comes to the category of trainers who
13	never trained for Jockey Club members, is that a 100 percent
14	computation?
15	A In certain instances, yes.
16	Q What instances?
17	A For the stalls requested and the stalls assigned.
18	Q You say there you reviewed 100 percent of the
19	applications filed
20	A By the nonmembers.
21	Q by the nonmembers?
22	A Nonmember trainers.
23	Q Nonmember trainers, and 100 percent of the grants.
24	A Yes, requested and granted.
25	THE COURT: And by hypothesis, denied, because if

		493a
1	mktb	Friedman - cross 419
2	they were	not granted they were denied.
3		THE WITNESS: Well, certain of the members were
4	denied.	
5	Q	Mr. Friedman, when did you do this study?
6	A	It was done, I believe, at the end of '72 and the
7	early part	of '73.
8	Q	And this is with respect to the years 1967, 1968
9	and 1969?	
10	A	That is correct.
11	Q	Did you ever make a study of any other subsequent
12	years, name	ely, '71 or '72?
13	A	No, sir.
14	Q	Do you recall testifying with respect to these
15	figures in	another trial?
16	- A	Yes.
17	Q	And are these the same figures that you introduced
18	there?	
19	Λ	Yes.
20	Q	And have you made any study since the other trial?
21	A	As far as these particular exhibits?
22	Q	Yes.
23	A	No.
24	Q	And do you recall in that other trial whether you
25	testified t	that your review of applications filed by trainers
TAXABLE PARTY OF		

Friedman - cross

1	mk	+1
1	noc	-

who never trained for Jockey Club members was based on a 100 percent survey?

I probably did.

4 A

Q Mr. Friedman, I would like to ask you if you recall in a trial before Mr. Justice Stecher of the New York Supreme Court being asked this question:

"Question: Now how did you arrive at your figures with respect to trainers who trained for non-Jockey Club members?

"Answer: We took a sample. Under supervision and discussion with Dr. Arkin we took a sample of two hundred and fifty trainers who trained exclusively for nonmembers."

And then later on -- that was on page 374 and 375.

And then again on page 382 and 383 you are asked:

"Question: Now with respect to the ratio applied
to Jockey Club members, that was not based upon a sample,
that was based upon a hundred percent coverage of the actual
situation there, is that correct?"

And you answered: "Yes."

And then:

"Question: And that ratio is .53.

"Answer: Yes.

"Question: Now, with respect to non-Jockey Club trainers, was based upon a sample.

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Friedman - cross

Trainers who trained for persons other than Jockey Club?

"Answer: Only for non-Jockey Club members.

"Question: That was based on that sampling which you described?

"Answer: Yes.

"Question: What was that ratio?

"Answer: .81, which again is, as the judge pointed out, if there were a hundred stalls, 81 would have had horses that would have started as compared to 53."

I believe in reading that question or that answer it should have read -- excuse me, with respect to horses starting.

Do you recall giving that testimony?

A Something like that, yes.

Now how did you --

A Are you talking about ratio of horses starting?

You just mentioned about ratio of horses starting which was based on a sample.

O As the number of stalls granted.

A The requests granted were based on 100 percent.

The ratio of horses starting and the number of starts, those were based on the sample.

Q I see.

A	That	is	what t	the	test	imony	was	on,	and	the	81
percent	that you	ı m	entione	ed i	s on	this	Exh	ibit	26.		

Q Exhibit 26 was based on the 100 percent sampling, and the other exhibits -- I am sorry, they are based --

A Exhibit 26 is a ratio of horses starting to stalls assigned. Stalls assigned was on 100 percent. Horses starting was from a sample. This ratio is based on those two numbers, as it says, based on 955 nonmember trainers for stalls assigned, and on 250 nonmember trainers for average of horses starting.

- Q And that is --
- A Exhibit 26.

THE COURT: 955 you have as the number of non-member trainers.

THE WITNESS: That would be 100 percent.

- Q Incidentally, when you speak of 955 nonmember trainers you are duplicating trainers who applied in different years at different meetings?
 - A That is correct.
- O So that if a particular nonmember trainer applied, let us say in this case Aqueduct-Belmont, twice a year for the three years, he would count as 6 in the 955 figure?
 - A Yes.
 - Q And the same would be true with respect to your

2	figure	of	71	member	trainers?
- 1	Ligure	OL	, T	member	trainers?

- A That is correct.
- Now looking again at Exhibit 26, Exhibit 27 and Exhibit 28, am I correct that each of those exhibits is based on this sampling insofar as it concerns trainers who trained for non-Jockey Club members?

A Yes, for horses starting and the number of starts based on this sampling.

- And that is true of all three of those exhibits?
- A No, Exhibit 28 is not. Exhibit 28 is 100 percent.
- . Q What is Exhibit 28?
 - A That is based on 100 percent.
- O I see. Now with respect to Exhibit 28, Mr. Friedman, did you take into account in any way in making that study the quality of the horse for whom stall space was being asked?

A No.

- Q Am I correct, then, that in your computation each horse for whom a stall was sought was counted as one horse?
 - A Yes.
- And that would also be true insofar as you had a trainer with a long record of racing in New York, and a trainer who had other races in New York -- you would count his application for one horse as one horse?

	1	mktb	498a Friedman - cross
	2	A	$\Delta \mathcal{I}_{A}$
	3	Q	when it comes to your studies on hi
	4	number	noises starting and the average number as
	5	stall a	assigned, could you tell us how you proceeded?
	6	A	Yes.
	7	0	In other words, let me put it this way: You start
	8 1	with a	stall application which lists the names of the number
9) (of races	s; right?
10		A	Yes.
11		Q	Then you have some bookkeeping records that show
12	b	y Owner	?
13		Α	By owner bookkeeping records are by owner.
14		Ω	Showing the name of the horse, the race in the
15	lit	ran, a	and the purse; right?
16		A	Correct.
17		Ú	And how did you put these two sets of forms
18	to	gether?	
19		A	Well, we listed it on our sheets.
20		Q	Listed what on your sheets?
21		A	Well, we listed the trainers, and for all to
22	tra	iners w	e listed the name of the horse and the number of
23	sta	rts.	one number of
4		Q	You started with which form?

We started with the application.

25

A

the stall application the name Secretariat appears. You then

	500a
1	mktb Friedman - cross 426
2	looked to see whether that particular horse ran or not?
3	A No, not them. We would see the owner of Secretari
4	Q But you do not know whether that horse ran or not.
5	A Not necessarily.
6	Q You just looked to see if any horse ran for a
7	particular owner.
8	A Yes, because we knew the owner had stalls assigned
9	and we weren't concerned with what he was using those stalls
10	for if he had a certain amount of stalls he would be using
11	it for horses, and we did not care which horse he was using
12	it for. That is why we took the application statistics.
13	Q I see. Again in making this study with respect
14	to the horses starting per 100 stalls assigned and the average
15	number of starts per stall assigned, did you take into
16	consideration in any way the quality of the horse?
17	THE COURT: He did not take that into consideration
18	Q In any of your surveys you paid no attention to the
19	quality of the horse, you paid no attention to the trainer's
20	qualifications and record of past rating events?
21	A That is correct, we did not pay attention to that.
22	THE COURT: These figures were gotten together by
23	an accountant who never had seen a horse or horse trainer?
10000 FEB 100000 FEB 10000 FEB 100000 FEB 10000 FEB 100000 FEB 10000 FEB 100000 FEB 10000 FEB 10	The state of the s

THE COURT: They are just a reflection of figures.

THE WITNESS: Yes.

24

	501a
1	mktb Friedman - cross 427
2	THE WITNESS: That is correct, a reflection of
3	figures of stalls assigned.
4	Q And I believe you also said, to clarify this,
5	that you entirely disregarded any trainer who trained both
6	for a Jockey Club member and a non-Jockey Club member?
7	A Yes.
8	Q How many such trainers were there?
9	A I don't know offhand.
10	Q What was your reason for disregarding that group?
11	A Because being that they were training for both,
12	we felt it would not give us the proper statistics we might
3	not be able to derive the correct statistics.
4	Q Why wouldn't you be able to derive the correct
5	statistics?
6	A Because they were getting stalls assigned. You did
7	not know exactly which horse was going into which stall and
8	you couldn't say if this trainer was doing it for a nonmember
9	or a member. He was getting X amount of stalls.
0	THE COURT: If a trainer asked for ten stalls he
1	did not tell what owner he was asking for?
2	THE WITNESS: Not necessarily.
3	THE COURT: It could be all ten or no for one.

That could be ascertained by other records, however,

THE WITNESS: He has the horses listed, too.

23

24

	11			
	11			
	11			
0.000	11			

could it not?

3

A I don't know. I don't think so.

4 5

Q Did you ask whether that could be ascertained by other records?

6

7

8

A I asked around and I did not get an answer from anybody. Nobody seemed to be able to give an answer on that.

No one said, "Yes, we have those statistics. If you want to look at them you may look at them."

9

Q I am not talking about statistics.

10 •

A Well, that information we were never given.

12

THE COURT: Did you try to get it?

13

THE WITNESS: I believe we did, because that would have made the job a lot easier.

14 15

Now with respect to the purse records that you just testified to, could you tell us how that study was done?

16 17

A Could you repeat that.

18

(Question read.)

for the purses won by --

19

Q In other words, what records did you use?

20

A We used the annual reports of the New York Racing

21

Commission which gave the total purses and the total handle

23

for the various tracks, and we accumulated our information on the various tracks. We used copies of the bookkeeping records

24

25

Q Before you go to the bookkeeping records, Mr.

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

- Friedman, when you took the New York Racing Commission report which showed the handle and the purses at these various tracks, what did you add up?
- A Well, we added up the total purses and the total handles for the three tracks.

We also added the total handle and total purses at Aqueduct-Belmont, and the total handle and total purses for Saratoga.

- Q And what did you do with them?
- A We computed the ratios of the purses to the handle in each case.

We also computed the ratio -- the average ratio for all three tracks -- the average purses paid, as we call them, which would be the average for the three.

- Q You gave a list of figures for the years 1961 to 1970, starting with 2.15 in 1961.
 - A Yes.
 - Q What does that figure represent?
- A That is the ratio or the percentage of the purse to the handle for Aqueduct and Belmont.
 - Q Has Saratoga been totally excluded?
 - A From those, yes.
- Q And the Saratoga figure for that year was 5.24?
- 25 A That is correct.

		504a
1	mktb	Friedman - cross 430
2	Q	That is solely
3	A	Saratoga.
4	Q	Saratoga.
5	A	Which means the ratio at Saratoga was 5.24; the
6	ratio at A	Aqueduct-Belmont was 2.15.
7	Q	Then you gave a figure which you described as the
8	Saratoga e	excess, which for 1961 was \$749,141.
9	A	Yes.
10	Q	What does that represent?
11	λ	That represents the excess of the actual purses
12	paid at Sa	ratoga and the purses that should have been paid
13	had all th	e tracks received the same percentage.
14	Q	What percentage would that be?
15	A	For 1961 it would have been 2 rounding it
16	out, 2.30	percent if you combined everything all the tracks
17	should hav	e received 2.30 percent.
18	0	And what you have done is to subtract that figure
19	from Sarat	oga's 5.24?
20	A	No well, we determined it in dollars.
21	Ω	Yes, but, first of all, you had to come up with a
22	percentage	
23	A	Yes, we came up with an average percentage. We
24	multiplied	the average percentage times the handle to give us
0=		

the purse that should have been paid on the average.

18

21

22

23

24

25

THE COURT: Oh, I see.

MR. MOSS: The state law came into effect later, when it jumped to 2.7 and then 3 percent.

MR. HYDE: I may add that there was no state law governing the amount of purses until, I believe, 1967, at which time the law mandated a minimum of 2.768, I believe.

mktb 1 Friedman - cross Then the 3 percent figure took effect, I believe, on the 7th of August, 1970, but these figures --3 MR. MOSS: Somewhere around there. MR. HYDE: It must have been 1971, your Honor. 5 THE COURT: All right. 6 BY MR. HYDE: 7

And all of your figures for the subsequent years were arrived at in the same way?

Yes. A

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

In making your computation of what you call the Saratoga excess, and applying it to Mr. Karlinsky's earnings and Mr. Jacobson's earnings, did you take into consideration in any way what might have happened to the handle at Saratoga had the purses paid there, in the case of 1961, been only \$585,000 instead of the \$1,335,000?

- What would have happened to the handle, no.
- You assumed regardless of what the purses paid that the handle would have remained the same?
 - We did not assume that. We took that into account. A
 - But that is implicit in your computation.

THE COURT: It is a calculation -- they assumed the same total handle for the whole operation.

THE WITNESS: It is hard to say that they assumed that -- that we assumed they would not change.

	433
2	THE COURT: No, but the calculations assumed the
3	same total take. If Saratoga had closed up, for example, as
4	a result of the lower purses there would have been less total
5	spread around.
6	THE WITNESS: The purses would have been less if
. 7	the handle was less.
8	THE COURT: Yes.
9	THE WITNESS: But possibly there would have been
10	more handle. In other words, the excess there was still
11	more money being generated at Aqueduct-Belmont.
12	THE COURT: Aqueduct-Belmont would not generate
13	any money.
14	THE WITNESS: On the purses it would have.
15	THE COURT: Why?
16	THE WITNESS: Based on our calculations.
17	THE COURT: But they would run better in order to
18	create more money, isn't that right?
19	THE WITNESS: No. If there was
20	THE COURT: I am referring to the distribution of
21	money taken in.
22	THE WITNESS: Correct.
23	THE COURT: Part of the money was taken at Saratoga
24	THE WITNESS: Correct.
25	THE COURT: If Saratoga closed that money would not

17

18

19

20

21

22

23

24

25

Saratoga.

because there was no place else to distribute that money. It would have stayed at Aqueduct-Belmont.

THE COURT: So your position is --

THE WITNESS: That some of that money went to

THE COURT: Saratoga took it away.

THE WITNESS: It contributed in a negative way.

1	mk tl
23374512024	The second second second

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

That is my opinion.

3 BY MR. HYDE:

Q You are aware, are you not, that the NYRA is required by law to offer it at Saratoga?

MR. MOSS: I beg your pardon, that has been said many times, and I object to that. It is not true. They have a permission to operate.

THE COURT: They are required by law to operate.

MR. MOSS: But the racing association does not have to utilize the days they are allotted.

THE COURT: As I read the statute, they have to.

MR. MOSS: I might not have read it correctly, in view of what has been said here, and I will take another look.

Q I think this has already been covered, but just to make sure that we are clear on it, in making your computation with respect to Mr. Jacobson you simply eliminated what he did at Saratoga completely.

A Yes.

Q And you made no computation as to how much, if any, he would have participated in in the so-called Saratoga excess?

A Correct, we did not make that. I do not think it is much.

THE COURT: What section of the law is it which

2 says that they must race?

MR. HYDE: I have it here, your Honor. It is
7972 of the Supplement -- the 1972-1973 Supplement, and the
statute reads in terms of first zone and second zone. I
think Saratoga is the second zone, I believe, Whenever the
statute speaks of the "second zone" that refers to Saratoga.

There is a clause in there that says a minimum of 24 days of racing shall be assigned exclusively to the second zone unless the government determines that a sufficient emergency exists by reducing the number of days of racing.

I might add as a matter of interest, your Honor, that earlier this year it was suggested in view of the energy shortage, that there might be a sufficient emergency, and Governor Wilson said that was unthinkable.

MR. MOSS: If your Honor please, the point I was trying to make before is this -- I am not sure it has a practical effect because I do not think they would dare do otherwise, but normally the racing commission assigns a certain number of days which it makes available to the tracks. The tracks have the option of applying for or using all of those days.

I am aware of the fact that the NYRA would find itself in trouble if it did not use it, but nevertheless, speaking in an entirely technical way, it would have the right

1	511a
	mktb Friedman - cross 437
2	not to use those days assigned.
3	MR. HYDE: I beg to disagree with that.
4	MR. MOSS: As on the harness tracks, which are
5	separately and privately owned.
6	MR. HYDE: I think the only option that the NYRA
7	has is to
8	MR. MOSS: I assume they would get a lot of
9	static if they did it.
10	THE COURT: The statute says, as I recall, a
11	minimum of 24 days of racing shall be assigned exclusively
12	to the second zone.
13	MR. MOSS: Right.
14	THE COURT: I must have read it in an earlier
15	version because it seemed to me it said "Saratoga."
16	MR. HYDE: Perhaps I can find where that definition
17	appears.
18	MR. MOSS: I think the second zone includes
19	Canandaigua, for whatever that is worth.
20	THE COURT: Well, at any rate, it is not really
21	relevant to this cross-examination.
22	BY MR. HYDE:
23	Q Mr. Friedman, going back for a minute to your
24	exhibits with respect to the number of starts per stall, did
25	

that study take into consideration in any way the situation

1	mktb Friedman - cross - redirect 438
2	where following the initial application for stalls and the
3	grant of a certain number of stalls by the Racing Secretary,
4	there was some change in the number of stalls used by that
5	trainer for example, he relinquished a certain number of
.6	stalls or acquired additional stalls during the course of
7	the meeting?
8	A It was based on the original application, what he
9	applied for originally.
10	MR. HYDE. I have no further questions.
11	MR. MOSS: I have no further questions.
12	Oh, just one other question.
13	REDIRECT EXAMINATION
14	BY MR. MOSS:
15	Ω Incidentally, Mr. Friedman, these bookkeeping
16	records show the horses that each owner has there and the
17	number of times that they engaged in races?
18	A Yes, they show that.
19	MR. MOSS: I have no further questions.
20	RECROSS-EXAMINATION
21	BY MR. HYDE:
22	O When you say it shows the number of horses there?
23	A No, it only shows the horses when they raced.
24	Q So a particular owner might have horses stabled
25	at the track who did not appear on the bookkeeping records?

1	mktb Friedman - recross 439	
2	A Might not appear on the bookkeeping records.	
3	MR. HYDE: That is all.	
4	FURTHER REDIRECT EXAMINATION	
5	BY MR. MOSS:	
6	Q When they raced they appeared on the records?	
7	A Yes.	
8	MR. MOSS: I have no further questions.	
9	THE COURT: Thank you very much.	
10	(Witness excused.)	
11	MR. MOSS: If your Honor please, we have agreed to	
12	stipulate that if Commissioner Gimma, Chairman of the racing	
13	commission, were called he would testify as follows:	
14	"Question: Within your experience has the racing	
15	association or the Jockey Club ever discharged one of these	
16	officials?	
17	"Answer: Well, discharge would be their prerogative	2
18	Not that I could recall.	
19	"Question: It would be their prerogative?	
20	"Answer: On the discharging, yes.	
21	"Question: In other words, you don't assert any	
22	right to approve or disapprove a discharge?	
23 .	"Answer: No, but a dischargee has a right to appea	1
24	to the commission.	
25	"Question: But you don't feel you have the right t	0

approve discharges the way you approve appointments?

"Answer: We don't have that authority."

If your Honor please, that is the plaintiffs' case.

THE COURT: And defendants move to dismiss?

MR. HYDE: I do, your Honor.

THE COURT: And the Court reserves judgment. And the defendants rest, yes, I understand.

MR. HYDE: Yes. As I understand it, the other day, your Honor, Mr. Moss called a number of witnesses with the racing association and the Jockey Club, and we feel that our case has been adequately presented through those witnesses.

THE COURT: Now I will hear from Mr. Moss.

MR. MOSS: If your Honor please, we feel that we have established the existence of a monopoly power -- control, in other words, of the competition among horsemer racing in this New York area.

We also concede that that power is based partly upon state law. We claim, however, that the state law did not give to the Jockey Club or to the individual people who are both members of the Jockey Club and the board of trustees acting in that capacity other than trustees of the New York Racing Association, namely, as individual horsemen or as members of the Jockey Club, did not and could not in fact give them the right to use the monopoly power given to the

management people of the New York Racing Association, to benefit themselves by restricting competition from other horsemen, by helping themselves through the way the purse structure is composed; that they are acting in a totally nonauthorized capacity in that respect, and they are using a monopoly power for illegal purposes which was never contemplated by the state, although even if it were I am not sure that that would condone what they have done.

Now we have restricted ourselves with respect to the damage to the two particular plaintiffs because we had to, and we say the most obvious exercise of this power to benefit a select group was by the disparity of purses paid at Saratoga in relation to what Saratoga earned, and that money in effect was taken out of the people racing at Aqueduct and Belmont, and that at least to that extent these defendants should be required to pay as damages the excess money paid to Saratoga which was above the normal required -- some years by law and other years by custom, which was paid, to the average of the three tracks.

So with respect to the monopoly powers we claim that we also ask for an injunction to prevent these practices from going on, and I suppose it might be almost the same as an injunction to say, at the very least, that these people should be barred from racing in New York as long as they hold

1 | mktb

upon that basis.

441A

the capacities in which they exercise managerial functions,

because in that capacity as horsemen that they exercise

wrongly, the powers granted to them are improper thereby,

and we therefore move for judgment, if your Honor please,

INDEX

3	WITNESSES	Direct	Cross	Redirect	REcross
4	Nathaniel J. Hyland	7	70	97	
5	Frank M. Basil	116			
6	Patrick W. O'Brien	138	186	192	
7	Alfred G. Vanderbilt	210	236	242	
8	Ogden Phipps	255	262	267	
9	Kenneth Noe, Jr.	270	278	282 388	393
10	John C. Lawrence	295	310	317	321
11	Sue Caplan	326	327		
12	Raymond E. Karlinsky	341	356	363	368
13	Abraham Friedman	396	416	438	439
15	EXHIBITS			•	
16	For the Plaintiffs:			For Iden.	In Evid.
17	1 - 11				4
18	12 - 21		()		6
19	22 and 23		P:		255
20	24				254
21	25				401
22	26			405	415
23	27			406	415
24	28				415
25					

INDEX

EXHIBITS (continued)

FOR The Defendants: For Iden. In Evid.

A

B

E, F, G, H, J, K, M, N and P

Q and R Karlinsky et al

1

2

3

The New York Racing Association et al.

69 Civ. 4082

5

July 15, 1974

Befores

7

Hon. Whitman Knapp,

District Judge.

10

Present:

11

Jesse Moss, Esq. and Sue Caplan, Esq., Attorneys for plaintiffs.

12

13 14

Cahill Gordon Rheindel & Ohl, Esqs., Attorneys for defendants. David R. Hyde, Egg., O. Carlysle McCandless, Esq., Ira Finkelstein, Esq., and James S. Wright, Jr., Esq.,

of counsel.

15 .,,

17

18

19

20

21

22

23

25

THE COURT: I am prepared to make what I consider tentative rulings, and I am going to give you my findings; after you have heard my findings, obviously one side or the other is not going to be pleased with them, and that side will have the option either of trying to persuade me to change them or going up to the Court of Appeals.

By way of encouragement or discouragement, the last time I did this I changed one of my findings and found for the party that I had found against on the receipt of briefs.

In the first place--and correct me if I am wrong--there is no evidence that either of your clients ever asked for a stall and did not get one.

Am I correct in that recollection?

MR. MOSS: I think that Kurlinsky testified that he was told there were conditions to his getting a stall.

This COURT: He did not ever say, to my recollection, that "On such and such a date I had a horse and I wanted to get him in and I couldn't."

MR. MOSS: That may be.

THE COURT: Maybe I am over-simplifying it but it seems to me the complete answer to your case was one question and answer given by your client, Mr. Karlinsky, on cross examination, when Mr. Hyde asked him "Didn't he agree that Jockey Club owners had better horses than the average non-Jockey Club owners", and he said "Yes."

That seems to me to explain or possibly explain all the statistics that you have put in.

As I indicated in the off-the-record discussion, the Massachusetts legislature in its wisdom could decree that the Harvard Law Review should manage the Harvard Law School Placement Bureau of Harvard graduations, and it would turn out that all Harvard Law Review graduates got on the average better jobs and a higher percentage of applications accepted, and a higher percentage of higher-paying jobs, and a lower percentage of refusals; and that in and of itself would not establish or even suggest that the Harvard Law Review editors, who were charged with this statutory duty, were mis-using their powers.

So that seems to me to furnish an explanation of everything that you have proved.

Now on the question of Saratoga, all your witnesses nesses-and I recognize they were not your witnesses except in a technical sense, but still they were the only ones who testified-they said in their judgment it would be impossible to operate the Saratoga track without giving disporportionately high purses at Saratoga compared to Aqueduct and Belmont. They gave various reasons for that judgment, including the high price of taking horses from Aqueduct, which was more or less brought out in Mr. Karlinsky's testimony; but I do not have to go into

22

23

25

It is uncontradicted in the record that the person charged with carrying out the statutory mandate, which I read as being mandatory for 24 days, to keep a 24-day program at Saratoga--and you, at least, concede that it was the legislative purpose to produce that result, whether by mandatory legislation or otherwise --I assume mandatory legislation would be sufficient. based on the legislative judgment that the upstate deserves a good race track -- and there are many such legislative judgments on the statute in this state, which we down-staters do not necessarily agree with, but they are on the statute books, so we are faced with a statutory judgment that they are assured of 24 race days a year at Saratoga; and there is uncontradicted testimony that in the judgment of the management the only way to accomplish that is to have bigger purses. I say it is "uncontradicted"; in fact, Mr. Karlinsky testified that in his judgment that wasn't the only way to run faratoga. So I do not say it is uncontradicted that that is in fact the only way; I say it is uncontradicted that the management of the persons put in there by the legislature think it is the only way, and I do not find Mr. Karlinsky's testifmony sufficient to authorize me, or to suggest that I should find management's opinion unreason,

7 8

able in that respect.

Now as I recollect, the only direct testimony on the question of stalls--and here again correct me if I am wrong--the only direct testimony that there was any preference for Jockey Club owners against non-Jockey Club owners was Mr. Karlinsky's testimony that someone sayd that to him back in 1963 or 1964, I believe he said.

MR. MOSS: Somewhere around there.

THE COURT: As I recall it, 1963 is beyond the statute of limitations; 1964 is within it; is that correct?

MR. HYDE: No.

THE COURT: Are both out?

MR. HYDE: Both beyond it.

THE COURT: The only direct testimony that there was any plan to favor Jockey Club owners is that, plus Mr. Karlinsky's testimony, that on some subsequent occasion—and I forget the date—he calked around and some stable boys told him that that was the case. I do not think it is the authority of the stable boys to commit the Association to establish that phase.

Now there was indirect testimony on that score from Mr. Lawrence, who testified that it was his

observation that that was the case; but he qualified it in a rather interesting fashion by saying that since Mr. Noe came on the job that situation had been cleared up. That is my recollection of Mr. Lawrence's testimony on the subject.

ion on my part, because I started this trial under the assumption that I was going to find--not legally find but come to the conclusion that there was a considerable amount of hanky-panky that you were not going to be able to prove. That was based merely on my view that the legislature had set up a rather extraordinary system, by putting one set of owners in charge of the operation that all owners have to use, and my conclusion, to my considerable surprise, was that there probably wasn't any considerable hanky-panky going on.

Two things particularly impressed me on that score. One is there has never been from any witness even a suggestion that any track decision was erroneous or unfair.

Mr. Karlinsky did not suggest any track situation that he ever thought of was unfair, nor did he mention the subject matter, nor did any of your other witnesses, including Mr. Lawrence who is in a more clear

sense your witness, even suggested that there had been an unfair track decision, and I am sure had there been any evidence to that effect you would have produced it--

MR. MOSS: I certainly would.

my philosophic speculation as to why that should be. So it is contrary to human nature, and I concluded the reason was that these people who are the Jockey Club aren't in this business for money; they are in it for fun, and the way you have fun is to have a decent, proper and fair race, and manage a fair association, and therefore the employees of these people, like all other employees, want to win the respect of their employer; whereas an employee of this organization might realize that his employer would be monetarily happier if he won a race rather than have the horse disqualified; but over the long pull the employee would win his employer's respect if he gave him a favored decision.

That is my philosophic explanation of that, and what surprised me on the evidence as presented before me.

mony that in the negotiations for hiring him nobody discussed with him anything about any of the matters that you

were discussing here, or requested his views on any of these matters, and nobody has ever tried to influence him after hiring him--that is what he said, and he impressed me as a true witness and one who wouldn't have been here as your witness had anybody tried to influence him; but that was my impression.

Another technical difficulty with your proof is that there are race tracks all over the country over which the trustees of the New York Racing Association as such have no jurisdiction or influence at all; and there is not a scintilla of evidence that things work any differently in those places than they do here. On the contrary, on cross examination of "your" witness, Mr. Noe, it was brought out that the percentages were about the same at Hialeah as they are here.

Club members have faster horses and get more prizes, and I do not see how you can hold these defendants responsible for that result.

As far as the Horsemen's Benevolent Association is concerned, I do not see that you have adduced any evidence of hostility of that Association. The only evidence is that they ceased giving them a service, which so far as the record discloses, was being performed, and they

ceased that at a time when they started suing. Well, there is certainly no law that I know of that you have to give service to the people who sue you.

There has been a lot of talk about an almost strike--a strike by Benevolent members at Aqueduct and Belmont--maybe it was just aqueduct. There is nothing before me to indicate whether that strike was justified. All that I know about the strike is that the Attorney General enjoined it, whether successfully or unsuccessfully I do not know.

MR. MOSS: There was a decision on that a couple of days ago. The court held that the strike was justified.

MR. HYDEE Your Honor, that was not the decision; the decision is that the case fell within the so-called workingman's exception. It did not pass upon the merits of the dispute in any way; it was only on a question of law.

MR. MOSS: He ruled against the Attorney General and dismissed it.

MR. HYDE: On the ground--

MR. MOSS: That they were entitlted to do that, your Honor.

3

5

6 7

8

9 10

11 12

13

14 15

16

17

18

19

curiae?

20

22

21

23

24

25

THE COURT: They got an injunction.

MR. MOSS: There was just a temporary injunction, and it got dismissed.

THE COURT: You mean a temporary injunction gotten in 1971 was now dismissed:

MR. MOSS: Well, because the case was allowed to hang about.

THE COURT: Who cares about an injunction from 1971?

MR. MOSS: Nobody really did, but that was part of the case, that this Attorney General's action. which was an action for a permanent injunction as well. plus other penalties, was dismissed.

MR. HYDE: Of course the NYRA was never a party to that lawsuit.

MR. MOSS: Except as amicus curiae.

THE COURT: The Jockey Club was amicus

MR. HYDE: No; at the very outset of the case, on a motion for preliminary injunction, NYRA submitted an affidavit showing the monies that it was losing by reason of the stoppage of racing. It was not a party to the lawsuit at all in submitting this affidavit at the request of the Attorney General.

•

MR. MOSS: They submitted a brief as amicus, your Honor.

THE COURT: So you fellows struck.

MR. MOSS: Well temporarily -- we will see what the appeals court does about it.

THE COURT: At any rate, all that is before me is after the ruckus started, they stopped giving you gratuitous services.

MR. MOSS: That is right.

THE COURT: I do not see how that can spell out any malicious action or wilful action against the trainers.

So for these reasons, it is my conclusion that the complaint shou d be dismissed.

I will say that if either party wants—the defendants obviously won't want to try to make me change my mind, but they might want to make findings of fact which I haven't covered in my oral statement, that they might want me to put in my findings in more formal fashion. You might try to have me change my mind, or at least qualify some of the things I have said, so there is no point in getting this done before I go away two weeks from now; so I will say by the Tuesday after Labor Day papepers that either side wants to submit should

11a

be submitted, and at that time in submitting the papers either side should indicate whether they want any oral argument on that; and if neither side wants any oral argument, all right.

Thank you, gentlemen.

MR. MOSS: Thank you, your Honor.

MR. HYDE: Thank you.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

RAYMOND E. KARLINSKY, HOWARD JACOBSON, HARRY M. HATCHER and HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION, INC., etc.,

Plaintiffs,

-against-

THE NEW YORK RACING ASSOCIATION, INC., et al.,

Defendants.

SEP 16 1974

ORDER and JUDGMENT

69 Civ. 4082 (W.K.

The within action having been tried on July 8, 9, 10 and 15, 1974, and this Court having found in favor of the defendants for the reasons stated in open court on July 15, 1974, such statement of reasons constituting the Court's Findings of Fact and Conclusions of Law pursuant to Rule 52 of the Federal Rules of Civil Procedure, it is

ORDERED, ADJUDGED and DECREED that judgment be entered with costs in favor of the defendants and against the plaintiffs, and it is further

ORDERED, ADJUDGED and DECREED that the plaintiffs'
Amended Complaint be and the same hereby is dismissed.

Dated: New York, New York September 13, 1974

United States District Soles MA.

JUDGMENT ENTERED

ONLY COPY AVAILABLE

et The II COL

PLAINTIFF'S EXHIBIT 24 - DEPOSITION OF DEFENDANT HANES
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAYMOND E. KARLINSKY, et al., etc.,

Plaintiff.

- against -

THE NEW YORK RACING ASSOCIATION, Inc., et al.,

Defendants.

on behalf of plaintiffs, pursuant to order of the Hon. Constance Baker Motley, U. S. D. J., and to agreement of counsel, at Mo. 743 Fifth Avenue, Borough of Manhattan, City, County, and State of New York, on Monday, May 17, 1971, at 2:30 o'elock p.m., before a Motary Public of the State of New York.

Appearances:

JESSE MOSS, Esq.,

(743 Fifth Avenue, New York City)

Attorney for Plaintiffs;

- and
(Mrs.) SUE CAPLAN, Co-Counsel;

(Appearances continued on page following.)

Appearances (Continued):

Messrs. CAHILL, GORDON, SONNETT, REIMDEL & OHL, (80 Pine Street, New York City)
Attorneys for Defendants;
By O. CARLYSLE McCAMDLESS, Esq., and DAVID R. HYDE, Esq., of Counsel.

AGREED by and among counsel for the respective parties that the witness may be sworn by the Motary Public with the same force and effect as if by a Judge of this Court or the Clerk thereof, and that he may swear to and subscribe the transcript of his testimony upon this deposition before any duly qualified Notary Public of the State of New York or before any officer of this or other jurisdiction qualified to administer oaths, with like force and effect, certification, sealing, and filing being expressly waived and dispensed with, a copy to be furnished to defendants' counsel at the expense of the attorney for the plaintiff herein; and

IT If FURTHER STIPULATED, CONSENTED TO and AGREED that all objections except as to the form of questions are reserved to the time of the trial.

For the last I think it is three years.

Hanes

This is my second term as -- I was steward once before and you are elected for a certain length of time.

Then the time expires and you can't be re-elected, I believe, so I am back on my second term.

0 8 Were you at one time chairman of the board of trustees of the New York Racing Association?

A Yes.

Q 9 Approximately when was that?

A From its inception. First I had the title of president of the board of trustees. And the organization was changed from that type to a more orderly concept and I became chairman of the board and we appointed a president by the name of Edward Dickenson. And he was president and I was chairman of the board and it stayed until I was succeeded by Mr. Brady. I think that was about 1962 or 1963.

Q 10 Was there a time approximately during
1954, maybe a year before, when the Jockey Club
appointed a committee to consider the formation of
the New York Racing Association to take over certain
New York race tracks?

THE WITNESS: Do you want me to tell just exactly what happened?

10'

MR. MOSS: Please.

A The history of that is about as follows:

At Caratoga Springs, August of 1953, at a Jockey Club

dinner which is always given by the chairman of the

Jockey Club at the time of Saratoga because most of

the people are there, Mr. Ashley Cole, who was then

the chairman of the New York State Racing Association ---

Oll Can I interrupt you for a minute? When you say "Most of the people are there", you mean most of the members of the Jockey Club?

A Most of the people in racing of any importance all over the country are there.

So the chairman of the commission was there also and he always spent a good part of August there. He came to the Jockey Club dinner by invitation as the guest of the chairman. The chairman, by the way, was George Watt, the vice-chairman was Ogden Phipps. The chairman was away; he wasn't there, so the dinner was given by Ogden Phipps. He invited Mr. Cole.

Mr. Cole came and at that time the legislature was very restless about the quality of the racing in New York State and there was a legislator

Hanes

2

3

4

5

6

1

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

named Wick, I think, who had put a bill in the hopper in the legislature complaining bitterly about the condition of New York racing, saying in effect that if the New York people didn't get busy and do something about the quality of their own racing, New York was going to lose an enormous amount of revenue. And that revenue was going to New Jersey or Chicago or Delaware or Maryland or wherever the nearby race tracks happened to be. And they were insisting upon a better condition surrounding the tracks because the facilities at that time, in the newest race track in New York State was the Belmont Park and that was finished and put in operation in the year 1903. So it was ready to fall apart. And that is literally true, because we have abandoned Belmont Park a few years after that because the steel began to crystalize and Stone, Weber declared it unsafe. And we did shut down Belmont Park and move all the racing entirely to Aqueduct which had been built by this time. I think we built Aqueduct -- we moved into there about 1956 or 57, September of 57 I think it was. However, that is an incidental thing.

But the chairman of the commission at

Hanes

this dinner, after Captain Guggenheim had made a very strong statement about the quality of racing in New York, the chairman, Mr. Cole, got up and made a terrific speech about the quality of New York racing, saying in effect that if you fellows don't get up off your seats and do something about this thing, "I am going to recommend to the State that it take it over and do something for you." I mean it was just that blunt. It is not his words, they are mine, but that

was the message that we got and got very clearly.

As a result of that meeting, as a result of those words, a direct result, the chairman of the Jockey Club, then being the acting chairman, Ogden Phipps, appointed a committee of which I was appointed the chairman and the other two members of the committee were Larry Guggenheim and Christopher Chenery; a three-man committee. And I believe that we went to work as soon as Saratoga Meet was over. That would have been the end of August, 1953.

After one year's study we made our report to the chairman of the Racing Commission, making
certain recommendations of at least the way we envisioned and saw the way out of this thing. That letter

was dated --

Q 12 Were you and the other two men you mentioned, Mr. Chenery and Captain Guggenheim, all members of the Jockey Club?

A All members of the Jockey Club.

Q 13 Was it a Jockey Club committee?

A It was appointed by the Jockey Club at the insistance of the chairman of the New York State Racing Commission to whom we are subservient.

Q 14 But it was a committee of the Jockey Club?

Jockey Club because they are the people to whom the chairman of the commission directed his remarks. And he said, "You are the proper people to do it. You know more about it than anybody else, You make recommendations to the state and to me, the chairman of the commission, the agent of the state, and I will support you in it if it is a good plan." Simple as that.

The letter was dated September 24, 1954, one year after the meeting that I referred to. And that represented a very small -- that is a matter of

Hanes

record. You can get a copy of that if you're interested.

We submitted the plan obviously as fast as we could, which was a year away. And I don't think it was a week went by during that whole period of time when we didn't have serious meetings between ourselves and consulting with other people who knew more, perhaps, than we did.

But in any event, the chairman accepted the report, said he thought it had made good sense and would back us up in it and asked us then to make plans to implement this program which we had outlined. And we did.

O 15 Apart from the program itself, the policy part of it, did you go into the actual structure of the New York Racing Association -- it was called something else at the time -- as to how it was to be set up?

A Mr. Moss, I better answer that by saying no, because we weren't that smart. What we did do would be what any normal people would do, would be to talk to everybody in the racing associations.

There were four of them. We approached all four of

.15

them, Belmont Park, Jamaica Racetrack, Aqueduct and Saratoga. You understand, they were privately owned corporations, they had several hundred stockholders.

One of them, Jamaica, I believe, was traded pretty generally over the country. And they had a great many stockholders; how many I'm not familiar. It's easily ascertainable.

trying to build this plan. It didn't just come out of the sky; it was built really upon the foundation of what was possible and what was not possible. And we had no authority.—the state had not then and the state hasn't now any authority to take private property away from its ownership, the stockholders. So obviously we set about to make the best trade we could to buy those four associations.

Q 16 For the purpose of buying it you recom-

A The corporation was formed under the name of the Greater New York Association, GNYA.

Q 17 Was the creation of that corporation part of your plan?

It became a part of our plan, it became

a necessary part because it was a complicated corporate reorganization; four separate sets of stockholders, four separate sets of directors and unfortunately four separate sets of lawyers. And that compounded our difficulties no end. Obviously.

However, we had appraisals made of all the properties, the first step, to find a fair basis for buying these properties. As I say, we couldn't take them, there was no eminent domain here. We had to buy them and buy them at an arm's length transaction between willing seller and willing buyer. And we negotiated prices of those after being given the very best appraisals that we could find. And we had, I think, at one time three appraisers appraising the 420 acres, I believe, or the 480 acres of Belmont Park, the 220 acres of Aqueduct and more or less 180 acres of Jamaica and Saratoga was relatively easy. But we had appraisals made of those properties because they were the geographical centers of population of New York and it was very, very valuable property, very valuable real estate.

And the appraisals -- I don't remember what they were but it came out to I believe some \$9 million worth of real estate for Belmont and the other

real estate for the other two, because two were nearer New York than Belmont Park. Jamaica was one we said in a letter which I spoke about a minute ago to Mr. Cole, that our plan called for selling of the Jamaica Racetrack as real estate, buying the assets, putting them into the corporation and when we got to it, to sell Jamaica Racetrack.

Did the structure of this corporation which you were going to form, the Greater New York Association, lay out in your plan, too, the number of trustees, who the incorporators were going to be, etc.?

Yes. Our Certificate of Incorporation not only provided for the number of trustees, but named the trustees in the Certificate of Incorporation, which is a matter also of record in the state.

Was the work of getting that set up part of the work of your committee?

I would say that it was the sole work. This may or may not be correct but this is my belief. However, that committee asked the first 20 trustees to serve because we thought they would perhaps be more beneficial to us in building a strong organization than any other.

3

4

5

6

7

8

9 10 11

13

12

14 15

16

17

18

19 20

21

22

24

25

At that time I imagine there were 50 or 60 members of the Jockey Club, not less than 50, I believe. But we, I think, did the selection of those men. At least we had a great deal to do with it.

Q 20 By that means the corporation itself was set up, is that correct?

A The corporation was a necessity because of the fact that we had to have a negotiating --

Q 21 I understand that. I am saying that the creation of the corporation was part of this activity which you are describing.

The timing there is something that I can only tell you from memory. At a later date I can give you the dates, but I can only say this; the timing was necessarily after we had sent the letter to the chairman and the chairman had approved the plan in general principle and asked us then to go to work, implement it, come back to the commissioner for permission to form the corporation and to get the capital necessary to buy these properties.

Q 22 Which you later did?

A Which we later did.

Q 23 In the original plan, called the Jockey

3

4

5

6

Club plan in some of the papers I have seen, I noticed a provision as part of the plan that all members of the new corporation were to be members of the Jockey Club.

I testified before the Joint Committees in New York State in Albany at the time we asked for permissive legislation. We were incorporated under the regular corporate laws of the State of New York; I believe it is 7501, Corporate Laws of the State of New York. The only difference between us and United States Steel or any other New York corporation is the fact that we have a peculiar provision in that we can not pay any dividends on this stock. We own it, the 20 men own it, they bought it for \$50, five shares apiece, \$10 a share. We own the corporation but we can not sell it, we can never sell the shares until we either resign or die and then they must be sold to a successor trustee at the same price we paid for them. And the further provision in the corporate structure that the corporation itself can not buy back any of the shares at any price.

So that these 20 men own the corporation and we just had to have a peculiar sort of corporation that

7

8

9

10

12

13

11

14

15

16 17

18

19

20

21

22 23

24

25

Hanes

limited the ability to pay dividends or sell the stock or any of the trustees ever get any emolument of any kind.

Q 24 In your original Jockey Club plan which you submitted, was there a provision to the effect that trustees shall be members of the Jockey Club?

A I don't think there is any provision.

Q 25 I know there isn't now.

will tell you frankly I think it was a moral commitment on the part of the State of New York, not upon us, not to go outside of the Jockey Club but to have the Jockey Club, if they chose, appoint these trustees. That never has taken place because under the normal corporate structure, like all of the boards of directors, we have a right to -- not a right, but a duty and obligation to fill all vacancies by the board itself.

Q 26 And those vacancies have been --

A And the Jockey Club has never so far as

I know exercised any jurisdiction over the authority

of the trustees to appoint a new trustee. I believe

it is a true statement that they never made a suggestion,

_

certainly while I was chairman noone ever suggested to me --

O 27 But the fact is or is not -- I shouldn't put it that way. Is it a fact that no trustee has ever been appointed who is not a member of the Jockey Club.

A That's absolutely correct, in my belief.

Q 28 Was that due in part to the moral commitment which you spoke about?

A It is due to nothing else but the judgement of the trustees that this man is the best qualified man for the position. That is the only criteria that I know has ever been exercised and there is not a thing in the world --

I don't believe I have ever heard anybody say that he must be a member of the Jockey Club or he can't be a trustee in the New York Racing Association.

- Q 29 But that has been the fact.
- A All right, that's your interpretation.
- Q 30 I'm not interpreting.
- A I think the facts speak for themselves.
- Q 31 Are there any dealings of any substance

relating to racing between the Jockey Club and the New York Racing Association?

A I would say no. So far as I know, there has never been a joint meeting between the Jockey Club and the members of the New York Racing Association.

And they have never exercised any control over the New York Racing Association; that I can assure.

Q 32 I am not talking about control; have they ever discussed mutual problems?

This I can not answer. There is no doubt in the world that people interested in given subjects, whether they are members of the Jockey Club or not, would normally and naturally discuss the problems of New York racing. Anybody that is interested — and all of them are, they are a dedicated lot of people and there are as many who are not trustees as there are trustees — are desperately interested in the affairs of the New York Racing Association. They are very jealous about their position in the racing world. They want it to be the best racing and they want to have the best racing in the world because that means the best actors are going to put on the best show and that is going to

Hanes

attract the best audience. And the best audience will bet the most money and that is good for New York State and that is our first obligation.

Q 33 I refer now specifically to the pony lead fee arrangements between the New York Racing Association and the Jockey Club or the Jockey Club Foundation.

What is the Jockey Club Foundation?

A You will have to ask somebody that knows more about it than I do because I have been a member of the Jockey Club for a long time and frankly, I can't tall you any answer to that question. It was formed long before I became a member. I don't know who put up the money and I don't know what they do with the money except I read in the reports that they have given beneficial aid to people who deserve it.

Q 34 Do the reports indicate that they have any other activities besides that, if you remember?

A I don't have any -- I have never been an officer of that institution and I don't know who the officers are, frankly. I have never been interested enough to ask.

0 35 Then in your capacity as a member of the board of trustees of the New York Racing Association,

don't know whether it is part or all of those pony lead fees to the Jockey Club Foundation?

I wasn't aware of that. That may be ignorant, but by golly, I am frank to tell you it is something I have never bothered to find out about and don't ask about. I wasn't interested in it and I am not now.

I would be happy to tell you and it is easily attained from someone more acquainted with the affairs of the Jockey Club than I am.

Q 36 Is it possible for you to give me an idea of the nature of the problems discussed at meetings of the board of trustees of the New York Racing Association?

A I can give you the biggest one, if you want to hear; how we are going to pay back to 13 banks the \$105 million we borrowed from them. That is the biggest problem and it is the one I am most concerned with because I am probably the one that did most --

Let's put it this way, I did a part of the negotiations with the 13 banks in order to persuade them to let us have the money to do this job on

Hanes

\$1,000 capital. So I have been concerned by that ever since and I am dangerously very concerned about our ability to repay that money.

Q 37 We have had some talk, mostly off the record, about this and I wonder if you know enough about it, whether you can put it on the record; this provision for \$5 million worth of pari-mutuel receipts to collateralize or otherwise secure these loans or amertize them or pay interest on them.

When we made this loan, this was an extraordinary thing for the banks to do and it was based upon two things, I think it was fair to say; one was a 25-year franchise. You realize that in the old days of the four associations, that New York State Racing Commission had each year to assign a franchise or the dates for the four racetracks during the summer. They had very many fewer days of racing than we have now.

So that was a franchise of 25 years which gave the banks some security that these franchises would not be taken away from us next year and given to somebody else, the legislature gave us a 25-year franchise.

The second thing was having only \$1,000 capital and estimating our expenditures of something in the neighborhood of \$100 million, the second thing was the credibility of the people. If there ever was a character loan made in this world, I believe this is one. And we borrowed at the outset some 40 to \$50 million dollars or got the assurance that they would give us the money to pay off the stockholders that we were going to buy the four associations from, under the law as passed by the state legislature.

for that loan involved this \$5 million to this extent; that the Guaranty Trust Company at that time -- now Morgan Guaranty -- said, "We are the leading bank, we have to accumulate these funds and pay off other banks and we want time in which to accomplish this feat and we want you to deposit with us in escrow, for the benefit of our other associated banks, the full sum of the amortization" which was at that time \$5 million. "We want you to deposit that \$5 million and leave it here until you have accummulated that much so that we can distribute the \$5 million to the other banks."

I believe that is the history of the \$5 million.

O 38 And a provision was made whereby you were permitted to take the first\$5 million of paramutuel receipts for that purpose.

A At the beginning, Mr. Moss, I think we had to accumulate that \$5 million out of our own shares of the pari-mutuel revenue. What if it was at that time I forget, I think it ran always about two-thirds to the state and one-third to us. Say if it was five percent to us, it was ten percent to the state.

out of our own share of that revenue. Of course New York State has never paid any part of the expenses of running the New York Racing Association. Their take has been the cream of the top and they get their money without any subtraction, no cost, no expense, no purchases, no nothing. It comes right out of our share and we have to operate the company in such a manner that we have left enough money to pay that \$5 million.

And we had to accummulate that in the first 20 days, 30 days, 40 days of racing. And we had to accummulate that money in an escrow fund for the

7 8

Hanes

benefit of the banks.

If there is anything I have left out, I wish you would correct me because I believe that is the history of it. And I haven't looked at it for a number of years. I am sure I didn't expect this question.

O 39 Do you race horses?

If I said yes to that question I think it would be a little extravagant. I try to race horses, I don't succeed and I haven't any horses at the time good enough to race in New York. I wish I did but I don't.

O 40 Was there a period of time when you did?

A Oh yes, from time to time I have had one or two horses racing in New York without much success, I'm sorry to say.

Q 41 How long a stable did you maintain usually, without regard to whether or not they raced in New York?

I'll tell you what I have at the moment;
I race in Ireland -- my wife races more in Ireland
than we do here. At the moment I have four horses in
training, two in Maryland with Henry Clark and two in

7 8

Maryland with Mike Smiddick, so I have none in New York. I hope to have some this year. I have one that I am very hopeful about and I am going to bring that one here if I can.

Q 42 Have you had stalls in New York frequently assigned to your horses?

A No, no, I haven't had any horses here recently so I haven't had any stalls recently. But my trainers always had. I could always rely upon them to have one or two stalls that I could borrow. My trainers have been Max Hirsch and Smiddick and Henry Clark.

I believe in the 20 years I have been racing -- and Woody Stevens -- I believe they are the only trainers I have had.

Q 43 You left your stall problem to your trainers?

A My trainers I don't think have ever had stall problems because they have been racing in New York long, long, long ahead of the New York Racing Association. And Max Hirsch I guess has been here since — he is dead now but he has been in New York since the pari-mutuel law was passed in 1940, I imagine. Woody Stevens has been here for years and

years and so has Mike Smiddick and so has Henry Clark.

O 44 You would tell your trainer at the time

that you needed or wanted a stall or two?

horse trainer, I don't attempt to tell my trainer how

I left it entirely to him. I am not a

to train the horse. It's up to him when he brings the

horse here and when not. All I say to him, "Take the

horse where we have some hope of winning at least the

third or second place."

I am trying to buy the oats and I don't care where they race. I much prefer they race in New York because I can see them, but I would much prefer they raced where they could win.

Q 45 Did you occasionally, from time to time, discuss with your trainers the feasibility or desirability of bringing one of your horses or one or more of your horses to New York to race?

A I have discussed it with them, what their plans were for the horse, yes indeed.

Q 46 Were there some occasions when you agreed with them, or they told you that they wanted to bring the horse to New York or that you wanted to bring the horse to New York?

A My trainers do train in New York and when they move out of New York they have to put the horses with trailer at another track. Obviously they can't go to Maryland, so the ordinary procedure in that case would be that my trainer would send my horse to another trainer in Maryland.

That is what has happened right now with Henry Clark; he is in Maryland and not in New York, so my horses are with him in Maryland.

Q 47 But I am referring to those occasions when you or your trainer or both decide that you did have some horse that you were going to race in New York.

A That's his decision, whether they had the quality to compete.

O 48 But there was some occasions when that happened?

A I don't ever remember one because he never asked me for my opinion. He just said, "I'm going to send this horse -- he's no account and I am going to send him some other place where he has a chance of winning."

O 49 Send him from where?

A If he were in New York, to send him to Pimlico; if he were in Pimlico, to send him to Charleston, West Virginia.

Q 50 I am talking about those occasions when you did have horses in New York.

A I don't understand your question beyond that. I have tried to make it as explicit as I can.
What are you getting at?

MR. MOSS: What I am trying to say is that there were some occasions when you did have horses that you and/or your trainer decided should be up in New York to race.

A I just said a moment ago that I left that decision entirely to my trainer and when he told me that he couldn't win with my horse in New York, I sent him to a race track where I could put him in a claiming race. I generally put him in a sale.

Q 51 But you were aware, were you not, that there were times when some of your horses were going to be brought to New York to race?

A I was aware, obviously, of where my horses were.

Q 52 Do you know of any occasion where your

trainer told you he wants to bring one of your horses to New York, or you were going to bring one of your horses to New York, where you were refused stall space for that horse?

A No, my trainers generally had a stall before they asked the question. They had stall space assigned to them.

0 53 Is the allocation of stalls ever a subject for discussion at meetings of the board of trustees of the New York Racing Association?

A I don't think so. I have never discussed the allocation when I was head of the association.

never discussed the allocation of stalls so far as I remember with any of the people that were hired to run the association. That was their job, they have competence and they handled that part of the business themselves.

Q 54 Is there any general policy or set of rules to guide them with respect to giving stalls?

A I would say that general rules are the conduct of the trainer; the rules of the Association

Hanes

are that we don't want to let four-year-old maidens, so we don't want horses that can't run. We want horses of quality, otherwise we are putting on a bum show and we won't attract the people to the show.

So a man that had a good character, good horses, he got stalls from the stall committee without any question.

Q 55 You also had more stall applications than you have stalls?

At certain times during the year I would assume that was a correct statement. However, there were times when we needed more good horses than we had, Horses of high quality are hard to come by.

for the very simple reason that a trainer, I would think, would be more happily situated in New York than in any other place in the country for this simple reason that he could move his family and children into the area of Belmont and Aqueduct, put his children in school and stay here the entire winter. We are now racing this year 249 days. You remove the Sundays from those 249 days, it is pretty nearly a year of solid racing so that the trainer can bring his family

here and buy a house and live comfortably with the children settled in school, so he doesn't have to yank them out and move to Maryland or Delaware or Chicago.

So I would think it would be the most attractive place in the world to race and if I were a horse trainer I would endeavor to have stalls and to have horses good enough to apply for stalls in New York City.

Q 56 Are there any limitations on the number of stalls that are given to a trainer or owner?

A I think the limitation is largely a question to be determined by the committee, of the number of good horses that the man is going to bring.

Q 57 What committee is that?

A I would think that would be the limitation. We only have 2200 stalls at Belmont Park and we have about 290 stalls, not including the holding barn, at Aqueduct. So that is all the horses we can accommodate.

How many applications we had last year for that, I wouldn't know. But that is a matter that is easily ascertainable.

	Ö	58	Are	you	fami	liar	with	the	Saratoga	meet-
lng	of	the	New Yor	k Ra	cing	Ass	ociati	lon?		

A The Saratoga meeting, yes, I certainly am.

O 59 Before you get to that, is one of the things that comes before the board of trustees of the New York Racing Association the fixing of stake programs?

A Yes.

O 60 Is there some discussion of that?

THE WITNESS: Have we had discussions of that?

MR. MOSS: Yes.

THE WITNESS: I am a little deaf in my right ear and I can't quite hear.

Q 61 Do you have discussions of stake programs when it is presented to you as a proposed stake program presented to you each year?

A Yes.

Ω 62 Do you know offhand what percentage of the purses paid go toward stake races?

A I don't know that percentage offhand.

Our total purse program I would think at the moment

would be about \$23.5 million a year. And I would judge that \$8 million of that would be stake races, but that's a complete guess.

Q 63 Do you have any knowledge of whether or not the proportion of money paid out for stake races at Saratoga is higher than that paid at Aqueduct and Belmont?

A I think -- you say higher. Higher --

Q 64 Percentage-wise.

A In relation to the take it is much higher. I think the percentage of the take at Saratoga perhaps runs up to 70 to 90 percent. The total stake and overnights, all purse distributions at Saratoga would be, in my opinion, just a guess, somewhere in the neighborhood of 90 percent of the total.

Q 65 Does that mean that Saratoga must charge part of its expenses to monies received at Aqueduct and Belmont?

would just say that we run racing now nine months -it will be ten next year. But for those ten months we
don't single out one month and say we are going to
allocate this paying the expenses at Saratoga. It is

all lumped together, the cost of running the association, the purses are distributed all together. It is just a matter of any other corporation where you say your earnings in Saratoga during the month of August are not as big as they are at Aqueduct or at Belmont, that's obvious.

O 66 Don't you have a sort of summary of each meeting, how well a meeting does each meeting at Aqueduct, each at Belmont, each at Saratoga?

A Yes, we have a report every day that gives us the exact amount of money taken in and the percentage going to the state and the percentage going to the association.

Ω 67 And at the close of each meeting do you have a summary that says this is how we did at such and such a meeting?

A Yes, sir.

Q 68 Is the expense of conducting the Saratoga meeting ever met by the handle or other income at Saratoga?

A No,sir.

Q 69 It is always operated at a loss?

A Yes, sir.

Q 70 And the money for that comes from the take at Belmont and Aqueduct, does it not?

5 6

It has to come from somewhere and the only two sources of revenue we have is Aqueduct and Belmont and Saratoga.

7

9

You said before about the Saratoga meeting that everybody is there. I think that was the phrase you used.

10

I think I did.

11

Would you say that there is a substantially larger percentage as against all of the people racing there, all of the stalls alloted, a substantially larger percentage of Jockey Club and NYRA members or trustees racing at Saratoga than race at

12 13

14

15

16

Belmont and Aqueduct? I wouldn't say so, but what I am saying

17

18

now, I have never stopped to figure that out, it is 19 pure guess work, I wouldn't think there would be much

20

difference; it would be about the same.

21 22

sure you understand, people come from all over the

When I said "everybody" I want to be

23

United States. It is a Mecca where people come not

25

because the racing is necessarily the best, although it

is very good, but because they see other people who are interested in racetracks and racetrack operation and in the conduct of racing in New York State. And they have all their meetings there, all their associations come there during August to have their meetings and there are invariably presidents, vice-presidents, general managers, secretaries of all the other racing associations in the United States.

0 73 And you have some horse sales during that time?

Yes, a week of horse sales and one of the best horse sales in the country. And a great many people come there for that reason, both to sell and to buy.

Q 74 Of the total purse award made at Saratoga. are the percentages of stake purses paid as against the total purses paid, greater than at Aqueduct and at Belmont?

I would think so, Mr. Moss, and for this reason; that the racing at Saratoga I believe -- certainly in my best judgement -- is the finest quality racing of any short meet in the world. And that is based largely because the enticement has to be greater

2

3

4

5

6

7

9

10

11 12

13

14

16

17

15

13

19

20

21

22

23

24

to bring these horses to Saratoga than it does in New York City or Baltimore or some other place.

Q 75 Why?

A Because it is more effort and picking up your family, moving them to Saratoga with your horses, racing for 24 days at Saratoga. It's a whale of a big expense to the people that come. Therefore they come only because they have good things to shoot for and they wouldn't come otherwise, I don't believe.

Q 76 In other words, the Saratoga meeting gives them these things in order to induce them to come to Saratoga which they otherwise wouldn't do?

A I think that's a correct statement and I think it is fair to say that until the law of the State of New York makes it obligatory to have 24 days of non-competitive racing at Saratoga each year, I think Saratoga would suffer. That is in the law.

MR. MOSS: Off the record.

(Discussion off the record.)

Q 77 Is it a fact, Mr. Hanes, that a good number of the members of the Jockey Club and the New York Racing Association own homes and property up near Saratoga?

Hanes

Some do, some rent.

0 78 Would you say that that has something to do with the sort of show that is put on every year?

No, I would not say. I would put it in reverse; I would say they have homes up there because the racing is there. They don't race there because they have homes.

O 79 You disconnect the racing and the type of racing with the sort of social season they have up there during that meeting?

That's a perfectly normal question to ask and a perfectly normal, honest answer is that the social season is as a result of the good racing in Saratoga. And that is the reason why the people go and pay the horrible prices that they do for one months rent -- you have to take it for the month -- for 24 days of racing. Those two things are inseparable. You have horses running, you have the owners there, they look for something to do and the obvious thing is to have dinner with your friends and the next thing you have parties and you have a good time. It's a wonderful place to go and it is a great place to relax and it is a great thing for the horses.

4

5

6

7

8

9

10

11

1

And greater still is the absolute necessity of letting these two tracks here recuperate from the pounding and beating they take from training horses every morning and running horses every afternoon. You have to have a long time in-between races in order to keep those tracks in condition that they won't break down every horse on the racetrack.

You don't think that if Belmont and Aqueduct alternate, that that wouldn't do the same thing?

THE WITNESS: You mean to say if we didn't have to go to Saratoga?

Wouldn't there be an off period between Aqueduct and Belmont, who don't run the same time in any event?

They never run at the same time.

Wouldn't the track get that rest?

Both tracks. You wouldn't have to have as many crews. We are plagued with the expenses of operating this big investment and to have three crews working at a short interval of time, we would have to have two crews working, if what you are talking about now --

21

22

23

24

It's about the only rest that those tracks get. It isn't only the racing that matters but the fact that there are 2200 horses at Belmont Park that are pounding that track at 40 miles an hour or whatever their speed, and just tearing it all to pieces.

I rebuilt these tracks I got engineers and rebuilt them and followed advice from the outset. We didn't have safe tracks then like we have now. If you don't keep that cushion at a proper level and if you don't keep that space at a proper consistency without cups and holes, those horses running at that speed — at one time during their turning the corner all their weight is on one foot and going 40 miles an hour the pound per square inch of pressure upon those bones is so great that the slightest little pressure in that cup is so great, it will turn that horse's ankle and break a bone. Therefore the racetrack manager is plagued with the idea that he will be accused of having an unsafe track if those tracks are not terribly well cared for.

So it requires a lot of time and a lot of effort and a lot of manpower to keep those tracks

in shape.

O 33 Has there ever been any occasion during the course of your serving on the board of trustees during which stall allocation has been discussed?

You may have answered that, I'm not sure.

I don't know whether you asked it or not.

I think you did ask me was the stall allocation a

matter of concern to the trustees and I said that is

a matter of concern to the management and not to the

trustees.

0 84 Have the trustees ever been presented with various racing programs, the condition books, and asked to pass upon them or give their comments on it?

So far as I remember, I don't think the condition book has ever been brought before the board of trustees. Obviously all trustees, like all horse people, receive the condition books as soon as they are issued. We have never seen one before it was issued, however.

O 85 Has the same subject matter that eventually found its way into the condition book, been discussed at your meetings?

A No, I don't ever remember having heard a discussion of the condition book before the trustees.

0 86 Or of the nature of the races?

A No. And the secretary, Mr. Trotter, I don't believe he has ever appeared before the board of trustees except asking for some appropriation for some improvement. He has never been before the board on the subject of the condition book.

Q 87 What does he appear before the board of trustees on?

Do my knowledge he never has been there but one time and that was when we were discussing the matter of the racetracks and the program for the ensuing year. The only time I ever remember he appeared was when he brought in the stakes program for its approval. And I don't believe that the trustees have ever made a change in his recommendations.

Q 88 How about Mr. O'Brien, does he get in on those discussions?

I don't think Pat O'Brien has ever been before the trustees on this subject. If he has, I wasn't there. Not that I remember.

MR. MOSS: That's all I have for now.

(Examination adjourned sine die.)

2

3

4

5

6

7 8

9

10

11

12

13

14

15

16

17

18

19

20

21 22

24

25

STATE OF NEW YORK 88.: COUNTY OF NEW YORK

I, RHODA KAUFMAN, a Notary Public in and for said County and State, duly commissioned and qualified, and authorized to administer oaths to take and certify depositions, DO HEREBY CERTIFY that at the time and place aforesaid I was attended by counsel for the respective parties to the aforementioned cause, at which time and place the deposition of JOHN WESLEY HANES was taken on behalf of the plaintiffs before me as such Notary Public.

I FURTHER CERTIFY that to the best of my knowledge, information and belief said witness was of sound mind and lawful age, and, being by me first carefully examined and cautioned and duly sworn to testify the truth, the whole truth, and nothing but the truth, did thereupon testify as is shown in the foregoing transcript.

I FURTHER CERTIFY that all was done and written in the presence of counsel for the respective parties aforesaid, the deposition of said witness

being given orally in the form of questions and answers which were taken down stenographically by me and thereafter reduced to typewriting under my supervision, the foregoing transcript, consisting of Forty-one (41) typewritten pages, being a true and accurate transcript of my stenographic notes so taken.

nor attorney for any of the parties to the aforementioned cause; that I am not employed by any of them nor by their respective counsel; that I am not related to any of them nor to their respective counsel either by blood or marriage, and that I have no interest, direct or indirect, actual or contingent, in the matter in controversy, nor in the event thereof.

IN WITNESS WHEREOF I have hereunto set my hand and seal as such Notary Public at New York City, in the County of New York, this 30th day of June, 1971.

RHODA KAUPMAN

Notary Public, State of New York No.31-204-9901 My Commission expires 3/30/73

PLAINTIFF'S EXHIBIT 25 - STALL ASSIGNMENTS

AQUEDUCT - BELMONT AND SARATOGA TRACKS STALL ASSIGNMENTS

	Trainers With:				
	Member Owners Only	Non Member Owners Only			
Aqueduct - Belmont					
<u> 1967 - 1969</u>					
Stalls requested	1,786	13,120			
Stalls assigned	, 1,567	9,627			
Ratio of assigned to requested	.88	.73			
Saratoga					
1968					
Stalls requested	250	1,594			
Stalls assigned	234	931			
Ratio of assigned to requested	.94	.58			

PLAINTIFF'S EXHIBIT 26 - SCHEDULE OF RATIO OF HORSES, ETC.

AQUEDUCT - BELMONT TRACKS

RATIO OF HORSES STARTING TO STALLS ASSIGNED AND RATIO OF STARTS TO STALLS ASSIGNED

1967 - 1969

Trainers With	Ratio Of Horses Starting to Stalls Assigned	Ratio Of Starts to Stalls Assigned
Member owners only	.53 (a)	1.58 (a)
Non member owners only	.81 (b)	2.97 (c)

- (a) Based on 100% 71 member trainers
- (b) Based on 955 non member trainers for stalls assigned and on 250 non member trainers for average of horses starting.
- (c) Based on 955 non member trainers for stalls assigned and on 250 non member trainers for average starts.

PLAINTIFF'S EXHIBIT 27 - SCHEDULE OF NUMBER OF HORSES STARTING AND NUMBER OF STARTS

AQUEDUCT - BELMONT TRACKS

NUMBER OF HORSES STARTING AND NUMBER OF STARTS

AVERAGE PER TRAINER

1967 - 1969

Trainers With	Average Of Horses Starting per Trainer	Average Number Of Starts per Trainer		
Member owners only	12.62 (a)	37.32 (a)		
Non member owners only	7.75 (b)	28.36 (c)		

- (a) Based on 100% 71 member trainers
- (b) Based on 250 non member trainers sampled.
- (c) Based on 250 non member trainers sampled.

578a PLAINTIFF'S EXHIBIT 28 - STALL ASSIGNMENTS

AQUEDUCT - BELMONT TRACKS

STALL ASSIGNMENTS

1967 - 1969

Trainers With	Stalls Requested (Average per Trainer)	Stalls Assigned (Average per Trainer)	Ratio of Assigned to Requested
Member owners only	26.92 (a)	23.69 (a)	.88 (a)
Non member owners only	13.06 (b)	9.54 (b)	.73 (b)

⁽a) Besed on 100% - 71 member trainers

⁽b) Based on 100% - 955 non member trainers

DEFENDANTS' EXHIBIT E - 1972 HBPA PURSE STATISTICS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION RACING STATISTICS - 1972

Guy Hottel, Executive Secretary and Treasurer

	DAYS	TRACK TAKE	STATE	TRACK MUTUEL TAKE IN S	TRACK TAKE AND BREAKAGE	HORSE MEN S MONIES TO TRACK TAKE	S HORSE MEN'S MONIES TO TRACK TAKE (INCL BREAKAGE)	HORSEMEN'S	AVERACE HANDLE	DAIL Y AVFRAGE PURSES	STAKE	PURSES WITHOUT STAKES	TOTAL MINNES PAID TO HORSEMEN	TOTAL WAGERED
At-Sar-Gen	59	10.07	3 93	5.450.817	6,006,329	52 36	47.51	5 27	917,087	48,376	\$15,000	2,339 205	2.854.205	54,109,171
Agunduct	136	7 00	10 00	27.756.055	28.471.485	42 03	40 97	2 94	2.915.552	85 789	2.100.000	9.567.400	11.667.400	396 515 082
Arizona Downs	41	12.13	574	1,321,265	1.424.159 5.184.454	50 14 48 54	46.52	6 08	260.837	16 160	400.000	7.958 100	662.600 2.383.241	10 694 349 63 215 301
Arington Park Assin-tiora Downs	56		1050	1.147.035	1.195 477	65 67	63 01	772	186 206	13 457	116 130	637.260	751 310	10 427 591
Allantic City	60	770	9 30	6.327.070	6.327.070	48 66	48 66	374	T.369.495	50.736	636 200	2.406 000	3019 219	82 169 739
Atokad Park	32	10 80	3 20	541.702	585,789	51 78	47 42	5 53	1.197.624	50.755	150 000	1 220 400	1 384 416	5 017 620
Baimoral Bay Meadows	55	9 17	7 32 6 38	2.725.190	5.402 902	50 80	47 90	4 76	981.792	46.325	460 000	2.007.675	2 573 542	32 335 873 53 99# 560
Be-mont Park	72	7 00	10 00	14.491.521	14.836.296	50 59	49 42	3 54	2.875 302	101 841	1.795 000	5.537 600	7.332 600	207 02 . 744
Beulah Park	50	9 99	7 51	2 119 425	2.186.008	54 99	53 32	5 49	424.513	23 136	135 000	1.021 800	1.165 656	21 225 683
Bive Bonneis Canada	58	9 50	8 16	2.597.770	2.725.953	39 43	37 57	3 74 5 6#	471,464 1,058,881	59.581	386 000	3.254 555	3 670 764	27 344 918 64 531 789
Bonie Race Course Canonia Downs	75	9 66	5 34	6 239 566	6.489.543	58 83	56 56 55 25	5 47	299 523	16 238	7 000	121084	228 957	22 464 243
Calder	132	12 00	5 00	9.344.811	9.590.636	53 24	50 51	6 38	589 950	37.696	375 000	4.600.500	4 975 900	77.873 429
Centenn-si	60	11.45	4 55	2 220 097	2.377.910	52 67	49 18	6 03	323.191	19.492	117 500	1.052.034	1.169.534	19 391 502
Charles Town Race Course	132	10 25	5 75	5.474 696	5.904.764	51 48	47 73	5 27	936.055	21.140	450,000	2.760 500	2 6 18 405	53 411 684 46 802 769
Churchill Downs Cincinnasi Turi Club	50	10,25	7 44	1.798.394	1.950.342	52 37	46 87 50 55	5 36	357 641	19 564	119.250	858 530	985 902	17 882 088
Columbus	24	1091	3 09	478 289	525 353	5477	49 87	5 97	182 620	10 916	13 000	249 000	262.000	4 382 890
Continental	92	10 00	5 00	10.310 399	10 737 648	49 92	47 93	4 99	1.120.662	55 394	759.760	4 336 435	5.147.257	103 100 589
Cranwood	50	10 15	7 35	1.696 793	1 614 970	57 60	53 85	5 60	816 686	19 402	127.500	2 529 200	977 441 3 168 726	16 724 858 52 267 938
De Aware Park	43	9 15	6 40	6.272.152 5.433.168	5 892 030	50 52	47 85	4 74	1 360 663	64 906	570 001	2.221 030	2819498	59 368 536
Delroit Race Course	100	8 00	8 50	5 360 206	5 660 680	59 62	56 46	477	670.025	31 747	303.200	2 871 500	3.196 230	67 002 527
Dover Downs	43	12 50	4 50	1 281 122	1,323 116	45 95	44 40	5 74	238.368	13 555		582,900	588 691	10 249 838
Eagle Downs	53	10.00	5 00	5 896 935	6.137 857	5201	49 96	5 20	392 294	57 295	350 000 555 000	2 68h 672 6 221 (1)5	3 067 038 6 776 905	58 969 362 60 020 952
E Comandante P A	153	23 93	11 40	14 365 031	1.722 089	5187	47 17	5.31	386 130	20 327	355.000	792 765	800 772	15 059 091
Ellis Park James C Evangeline Downs	39	10 25	4 02	1 817 867	1 904 471	55 17	52 66	677	166 163	11 298	29.600	964 700	1 002 931	14 798 387
fer Grounds	96	970	6 10	6 254 206	6.558 086	54 55	52 02	5 28	658 220	34 509	314.700	3.067 200	3.411 920	64 505 605
Fairmount Park	75	9 04	6 96	2 596 506	2.750 232	54 17	51 14	A 89	382 751	18.580	19 000	2 203 783	2 223 783	28 706 349 45 480 098
Finger Laves	147	12 96	7 11	1 467 217	1.569 862	65 32	61 04	6 47	198 320	16 614	44 000	914 :00	958 400	11 304 247
Fiorida Downs Fonner Park	40	10 37	363	1 138 782	1.268 409	48 83	43 84	5 06	274.4:0	13819	32.000	520716	556.075	10 976 823
Fort Erie Canada	36	9 50	7.00	2 835 340	2.991 251	63 61	60 29	6 04	532 956	31.925	325 000	1462 8	1 803 706	79 845 686
Garden State Park	60	7.70	9.30	7 140 828	7 140 828	50 19	50 19	3 86	1 545 633	58 174	717.500	2.772.940	3 584 019	92 738 024
Golden Gate Fields	55	9 15	6.40	5 438 817	5.891.840	50 87 45 67	46 96	5 70	256 261	14 487	525 000	1.984.750	2 767 241	35 107 116
Green Mountain	137	9 50	7 00	4 388 476 2 813 686	2.962.565	48 68	46 23	462	538 504	24 (04	120 000	1.256 160	1 369 717	25 417 753
Greenwood, Canada Guitstream Park	40	9 50	7 50	6 872 929	6 872 929	46 36	44.36	4 59	1.808 665	63.107	820 000	2 504 300	3 324 300	72 346 630
Hawthorne	39	8 13	7.65	4.097.868	4 351 004	54 05	50 91		1.291.736	56 258	395 000	1.799.065	2 215 161 4 229 480	103 540 217
Haze: Park	129	8 65	8 50	8.263.217	8 748 360 5 658 966	51 06 55 92	48 34 55 92	5 31	862 637	32 560 64 591	765.000	2 400 000	3 165 000	59 568 063
Hidicah Park	75	9 50	7 50 -	5.658 966 17.563 001	17 692 666	44 35	44 03		846 584	102 840	2.620.000	5.003.000		213 493 840
Hollywood Park Jefferson Downs	100	12 32	4 17	3.234 507	3 462 422	52 51	49 06	6 47	262 538	16.812	31.000	1 652 234	1 698 743	26 253 816
Keene and	30	10 25	4 75	1.651.077	2 093 680	70 83	62 62	7 26	601 976	43.708	300 000	1.011.250	1 311 250	18 059 300 30 649 013
Latonia	68	10 25	4 75	3.141.523	3,491,258	52 49 56 39	53 97	5 38	979 463	24 007 52.868	556,000	2 616 100	3 201 270	58 767 732
Laurer Race Course	144	9 66	5 34	5.676.967 8.481.130	5 931 161 8 788 924	44 71	43 14	5 00	20 077	325 935	50 000	3 705 130	3 792 183	75 734 916
Lincoln Downs	30	10 52	3 87	607 548	897 439	54.71	49 23	5 75	255 849	14.726	20 866	421.000	441.866	7 675 485
Va-10010	36	10 38	5 62	2.899.586	3 033 956	54 57	52 15	5 66	775 931	41.937	104.000	1.465.743	1.582 332 753 080	15 079 605
Miles Park -	46	10 25	4 75	1.545.659	1 743 906 8 247 660	46 72	48 92	3 76 1	785 207	65 823	810 000	745.550 3.139.400		107 112 468
Monmouth Park	110	7 70	9 30	8.247.660 5.358.735	5 605 545	40 00	38 24		549 454	19 297	6.0000	2.122.710		60 439 976
Narragansett Park	50	10 00	600	6.030.115	6 232 648	48 92	47 33	4 69 1	206 023	58 422	220.000	2.701.100	2 950 195	60 301 153
On Tree	20	9 63	5 92	3.501.039	3 909 766	51 14	45 79		817.786	88 590	\$15.000	1.256.800	1.790 500	36 355 727
Para Jefferson	48	11 00	5 00	428 864	465 469	66 45	63 07	7 53	335 767	23.615	11 500	282 100	293 600	3 898 766
Penn National	100	9 66	5 00	3 357 670 · 6.780 408	7 075 657	71 03	54 33		:32.105	61.440	531 000	3.278 30	3.844 209	70 190 564
Pintico Race Course	62	10 00	5 00	1.367 134	1,421,870	62 02	59 63	6 20	207 141	12.721		639 600	847 996	13 671 341
Persenton	12	10 25	5 50	795 608	834 460	56 11	53 50		646 908	36 643	72.500	369 616	446 481	7 762 904
Pocono Downs	73	10 00	5 00	2.372.003	2 446 054		48 15		851 806	15 976	175 000	1.166.300	633 7.85	23 720 030
Fomone	14	10 25	7 43	1 222 342	1 298 668		54 4/		355.658	20.986	132 200	017100		17 782 924
Ounen City	50	10 07	7 43	1.042.772	1,114,245		56 OF		227.451	14 061	80.000	530 600	624732	10 007 851
Handali Park	50	10 08	7 42	1.896.781	2 033 142	60 31	56 27	606	376 295	9 668	152.500	963.400		18 814 512
Acceingham Para	77	8 00	6 00	4.963.551	5.234.292		49 40		805 771	33 272	105 000	2456.074	348 221	5 423 934
Sacramento	14	10 25	5 50	555 953	587,170 906,903		59 30 49 72		387 423 702 560	24 626 37 197	57 500	388 865	450 953	8 430 723
San Matro	12	8 23	5 50 7 32	17,140,742	17 249 368		43 82		777.076		2.367.900	5.115 500	7.559.120 2	08 280 760
Santa Anite Park Santa Rosa	75	10 25	5 50	642 007	677.387	54 68	5182	5 60	521 957	28 962	34 500	313.048	351.086	6.263 486
Saratoga	24	8.00	9 00	2.919.642	3.007.359	64 23	8178		520 647	102 479	565 000	543.999	2.459.500 343.999	36 495 535 5 846 147
Scarborough Downs	58	13 00	6 00	759 999	815 699		66 69		100,795	21,117	25.000	2.593 600		50 362 099
Shenandoah Downs	124	7 25	5.75	5.161.815 632.485	5 590.641 668 904		47 30		514.215	26 175	6 000	308.110	317 233	6 170 582
Solano	38	8 15	7 60	3.539 230	3.761.329		53.29	161 1.	142 567	52 274	302.500	1.683.920	2.004 662	43 417 577
Sporisman s Perk Slockion	11	10 25	5 50	443.262	468.170	50 15	47 48	4 14	390,136	20.010	12.500	207.611		4 324 504
Sulfale Downs	148	8 40	9 09	8 644 124	9.116.040		46 33		695 536	28.271	185 000	899 700		19 721 076
Summit	50	10 04	7.46	1.980,465	2.112.810		50 52		79.877	45.937	440 000	2 086 575		3 893 274
Summit	55	9 17	6 38	4.940.395 2.062.010	5.349,111		67 71 56 57		112.771	24 86C	192.500	1.050.500	1.251.907	0.638.584
Tantoran	50	9 99	7 51 5 50	1,541,343	1,614 312		19 83	5 48	811,644	33.220		797.300		4 679 459
Tanforan Tristiedown								5 72	65.390	49.569	350.000	2.078.500	2.428.900	2.404 127
Tanforan Tristiedown Timonium	24	9.50	7.50	4.028.392	4.028.392									2 040 425
Tanforan Thistiedown Timonium Tropical Park		9.50	7.50 5.65	1,463.484	1,570,742	50 89	17 42	6 18	261.953	16.192	63.500	661 400	744.900	2 134 574
Tanforan Thistiedown Irmonium Tropical Perk Turi Paradise Nashington Perk	24 49 46 32	9.50 12.15 6.78	7.50 5.65 9.02	1.463.484 2.856.313	1,570,742	50 89 63 74	17 42 58 68	6 18 2	16.705	16.192	\$3.500 \$35.063	1,270,700	744.900 1 1.620.695 4	2 049 660 2.134.574 5.091.710
Tanforan In-stedown Imonium Iropical Park Irof Paradisa Washington Park Waterford Park	24 49 46 32 304	9 50 12 15 6.78 10 25	7.50 5.65 9.02 5.75	1,463 484 2,856 313 7,696,899	1,570,742 3,091,938 8,265,896	50 89 63 74 50 39	17 42 56 68 16 92	6 18 4 32 5 18	261.953	16.192	\$3.500 535.063 \$0.500 166.500	3.764.700 1.800.262	744.900 1 1.820.695 4 3.878.997 7 1.966.782 3	2.134.574 5.091.710 8.005.460
Tanforan In-stedown Imonium Iropical Park Irof Paradisa Washington Park Waterford Park	24 49 46 32	9.50 12.15 6.78	7.50 5.65 9.02	1.463.484 2.856.313	1,570,742 3,091,938 8,265,696 3,646,523	50 89 63 74 50 39 57 49	17 42 58 88 16 92 53 90	6 18 4 32 1.2 5 18 5 17	261.953 116.705 247.012	16.192 56.428 12.628 17.102 35.487	\$3.500 535.063 \$0.500	3.766.700 1.800.262 2.312.800	744.900 1 1.820.695 4 3.878.997 7 1.966.782 3	2.134.574 5.091.710 8.005.460 3.337.024

DEFENDANTS' EXHIBIT F - 1971 HBPA PURSE STATISTICS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION RACING STATISTICS - 1971

580a

Guy Hottel, Executive Secretary and Treasurer

Ak-Sar-Bem Aqueduct Arizana Dawns Arizagian Park Assinibate Dawns, Canada Assinibate Dawns, Canada Assinibate Dawns, Canada Atlantic City Arabad Park Balmarel Bay Meedaws Belmant Park Beluah Park Blue Bannets, Canada Bawie Race Cayrese Cahabi a Dawns Caider Cantennial Charles Tawn Race Caurse Churchill Dawns Gincinnati Turf Club Celumbus Centinental Cranwood Delaware Park Del Mar	48 147 45 36 56 60 29 31 35 72 72 51 61 59 78	10.09 7.00 11.76 6.00 11.00 7.70 10.90 8.38 8.72 7.00 9.49 9.50	3.91 10.00 5.74 7.25 10.50 9.30 3.10 7.41 6.38 10.00	4,511,794 34,047,593 1,266,395 4,000,876 1,075,825 3,150,848 486,418 3,165,678	4,996,354 35,000,452 1,372,036 4,214,520 1,121,435 5,150,848	50.29 37.47 53.40 53.17 68.29	45.46 36.45	5.07 2.62	932,457 3,308,804	47,319 66,793	427,500 7,215,000	1,843,850 10,543,600 639,200	7,271,350 12,758,600	44,757,948 486,394,707
Aqueduct Arisana Dama Arisana Park Asianibara Park Asianibara Dawas, Canada Asianic City Arolad Park Balmaral Bay Meadaws Jelmont Park Bavior Park Contensial	147 45 36 56 60 29 33 55 72 51 63 59 78	7.00 11.76 8.00 11.00 7.70 10.90 8.38 8.77 7.00 9.49	10.00 5.74 7.75 10.50 9.30 3.10 7.41 6.38	34,047,593 1,266,395 4,000,876 1,075,825 3,150,848 486,418 3,165,678	35,000,452 1,372,036 4,214,520 1,121,433 5,150,848	37.47 53.40 53.17	36.45	2.62	3,308,804	86,793	7,215,000	10,543,600	12,758,600	44,757,946
Arrison Downs Arrington Park Arsinishor Downs, Conade Atlantic City Arch ad Park Belimeral Bey Meadaws Belimeral Bey Meadaws Belimeral Blue Bennets, Conade Bewish Park Blue Bennets, Conade Bewish Park Calder Contennial Conade Course Control Downs Cincinnati Turt Club Columbus Continental Cranwood Delewise Park	45 36 56 60 29 33 55 72 51 63 59 78	11.76 6.00 11.00 7.70 10.90 8.38 8.72 7.00 9.49 9.50	5.74 7.75 10.50 9.30 3.16 7.41 6.38	1,266,395 4,000,876 1,075,825 3,150,848 486,418 3,165,678	35,000,452 1,372,036 4,214,520 1,121,433 5,150,848	37.47 53.40 53.17	36.45	2.62	3,308,804	86,793	7,215,000	10,543,600	12,758,600	486,394,201
Arlington Park As sini bara Dawns, Conada Astinatic City Arabad Park Balmaral Bay Meadows Belmont Park Blue Bonnet B, Conada Blue Bonnet B, Conada Bawis Race Cayres Coholic a Dawns Calder Centennial Centennial Charles Tawn Race Course Churchill Dawns Cincinnats Turt Club Columbus Coninerata Conin	36 56 60 29 33 55 72 51 63 59 78	8.00 11.00 7.70 10.90 8.38 8.72 7.00 9.49	7.75 10.50 9.30 3.16 7.41 6.38	4,000,876 1,075,825 3,150,848 486,418 3,165,678	4,214,520 1,121,433 5,150,848	53.17				15 030	27 146			
As sinibore Downs, Canada Astanite City Astanite City Astanic Chy Balmarel Bay Meadaws Belmant Park Beulah Park Beulah Park Blue Bannets, Canada Blue Bannets, Canada Bawe Race Caursa Cahabira Downs Califer Centennial Charies Town Race Coursa Curchill Downs Cincinnati Turt Club Callimbus Cantinental Canada	56 60 29 33 55 72 51 63 59 78	11.00 7.70 10.90 8.38 8.72 7.00 9.49 9.50	10.50 9.30 3.10 7.41 6.38	3,150,848 486,418 3,165,678	1,121,433 5,150,848			6.28	239,224		37,150		676,350	10,765,111
Atch ad Park Baimeral Bay Meadows Belmont Park Berulah Park Berulah Park Blue Bannets, Canade Bawse Race Cayres Cahabis Dawns Celder Centennial Charles Tawn Race Course Churchill Dawns Cincinnasi Turf Club Columbus Cantinental Cramedod Deliumbus Centinental Cramedod Deliumbus Centinental Cramedod	29 33 35 72 51 63 59 78	10.90 8.38 8.72 7.00 9.49 9.50	9.30 3.16 7.41 6.38	3,150,848 486,418 3,165,678	3,150,848		65.51	7.51	174,646	13,120	405,000	1,702,200	2,127,426	30,012,518
Baimorel Bay Meadaws Selmont Park Beviah Park Beviah Park Beviah Park Beviah Park Beviah Race Caurse Cahabira Dawns Caider Cartennial Charies Tawn Race Course Churchil Dawns Continnati Turt Club Calumbus Cantinental Cranwood Delawere Park	33 35 72 51 63 59 78	8.38 8.72 7.00 9.49 9.50	7.41 6.38 10.00	3,165,678		55.37	35.37	4.26	1,114,902	47,095	363,950	2,261,800	734,760	9,780,228
Bay Meadaws Belmant Park Beulah Park Blus Banners, Canada Bawie Race Caurse Cahabi o Downs Caider Cantennial Carider Town Race Caurse Churics Town Race Caurse Churchill Downs Cincinnati Turf Club Calumbus Cantinental Cranwood Delewere Park	35 72 51 63 59 78	9.49 9.50	6.38		532,009	49.10	44.90	5.35	153,937	8,237	2,400	236,475	2,852,450	4,464,183
Berlinant Park Bevlah Perk Bevlah Perk Blue Bennett, Cenade Bewie Race Course Cahabira Dawna Calider Centennial Contennial Charles Tawn Race Course Churchill Dawns Cincinnats Turf Club Calumbus Cantinental Canned	72 51 63 59 78 129	7.00 9.49 9.50	10.00		3,360,376	48.77	45.94	4.08	1,144,653	46,300	1	1,527,900	1,544,029	37,773,580
Bevioh Perk Blue Bennete, Cenade Beve Race Course Cahabira Dawnb Ceider Centennial Charles Tawn Race Course Churchil Dawns Concurrati Turt Club Columbus Continental Cranwood	51 63 59 78 129	9.49		4,625,510	5,077,608	51.56	46.97	4.49	964,958	42,922	440,000	1,920,750	2,385,017	53,072,717
Blue Bonnets, Conade Bowie Race Caurse Coholic Downs Caider Contennial Charles Town Race Course Churchill Downs Cincinnati Turf Club Columbus Continental Cranwood Delewere Park	63 59 78 129	9.50		2,012,870	15,706,703	48.45	47.26	3.39	3,039,912	103,102	2,015,000	5,408,400	7,423,400	218,873,728
Bows Roce Course Cahabi a Dawng Caider Centennial Contennial Churies Tawn Roce Course Churchill Dawns Cincinnasi Turf Club Calumbus Cantinental Canadod Delewere Park	59 78 129		8.54	2,636,077	2,160,903	54.56	50.82 44.33	4.41	415,933	19,444	75,000	971,200	1,098,371	21,212,630
Calder Centennial Centennial Churies Tawn Race Course Churchill Dawns Cincinnati Turf Club Columbus Centinerial Cranwood Delawere Park	129	7.00	5.34	6,359,792	6,618,647	57.87	\$5.60	5.59	1,115,870	61,818	386,000	3,261,300	3,680,429	27,748,143
Centennial Charles Tawn Roce Course Churchill Dawns Cincinnati Turf Club Columbus Centinental Continental Continental Delawere Park		9.09	6.66	2,501,105	2,643,332	51.31	48.55	4.66	352,741	16,305	25,000	1,246,820	1,283,405	65,836,357
Charles Town Roca Course Churchill Downs Concennors Turf Club Columbus Continental Continental Conwood Delewers Park		11.11	4.73	6,474,764	6,689,158	53.64	51.92	5.96	451,679	26,927	254,775	3,218,883	3,473,658	58,266,719
Churchill Downs Cincinnati Turl Club Calumbus Cantinental Cranwood Delawere Park	60	11.52	4.48	2,113,559	2,268,867	51.96	48.41	5.98	305,830	18,306	97,500	1,000,900	1,098,400	18,347,815
Cincinnati Turf Club Calumbus Cantinental Cranwood Delawore Park	126	10.25	4.75	5,229,421	5,666,017	50.16	46.79	5.14	404,910	20,613		2,597,300	2,673,273	51,018,745
Columbus Continental Cranwood Delowere Park	50	9.54	7.46	1,817,269	4,983,783	58.79	46.13	5.27	871,743	45,518	460,000	1,815,900	2,298,888	43,597,175
Continental Cranwood Dalawara Park	23	10.92	3.08	472,979	1,962,104	51.29	46.33	5.60	188,251	21,206	112.500	947 800	1,068,473	19,057,509
Delowere Park	52	10.00	5.00	5,409,144	5,644,408	48.90	46.67	4.89	1,040,220	50,373	355,000	2,264,400	242,625	4,327,774
	50	9.78	7.39	1,750,655	1,873,026	63.62	59.46	6.22	357,914	22,120	125,000	981,000	2,645,594	17,895,716
Del Mar	65	11.50	4.95	6,519,067	6,718,009	53.06	51.49	6.10	872,114	52,852	695,000	2,740,400	3,459,603	56,687,542
	43	8.67	6.38	4,563,819	5,019,721	54.64	49.68	4.73	1,724,727	57,427	544, 185	1,925,200	7,494,029	52,633,163
Detroit Race Course	120	7.60	8.68	7,796,943	8,352,301	48.32	45.11	3.67	854,/11	31,175	486,000	3,255,000	3,768,218	102,565,325
Dever Downs	64	12.50	4.50	1,272,171	1,313,539	47.32	45.83	5.91	231,303	13,547		596,100	602,061	10,177,374
ogle Downs I Comendante, P. R.	159	10.00	5.00	10,358,653	10,779,686	52.70	50.64	5.27	1,177,119	61,423	673,700	4,731,569	5,459,506	103,586,537
Ilis Perk, James C.	39	10.25	4.75	15,500,243	15,500,243	48.45	46.00	11.84	377,776	47,237	472,000	7.038.619	7,510,819	63,385,148
vangeline Downs	67	11.88	4.12	1,466,029	1,536,974	57.36	54.72	6.81	184,119	19,676	14,000	768,170	775,929	14,733,287
oir Grounds	101	9.80	6.15	6,887,512	7,239,362	58.00	55.18	5.68	696,156	39,255	287,500	3,677,264	3,994,824	70,311,815
ermount Pen	75	9.14	6.86	2,400,152	2,528,850	52.27	49.61	4.77	350,025	16,563	16,000	1,226,230	1,254,652	26,251,899
inger Lokes	150	10.05	6.95	4,253,572	4,348,732	51.38	50.26	5.16	282,077	14,572	32,500	7,153,460	2,185,900	42,311,692
larida Dame	56	13.41	2.59	1,448,476	1,572,474	53.33	49.13	7.15	192,910	13,796	31,500	741,100	772,600	10,807,981
onner Pork	33	10.49	3.51	863,290	968,344	54.22	48.34	5.68	249,481	14,184	32,000	436,100	468,100	8,732,905
ort Erie, Coneda	56_	9 50	7.00	2,606,657	2,747,708	56.54	53.64	5.37	467,772	26,320	325,000	1,148,973	1,473,973	27,438,482
orden State Perk olden Gare Fields	55	7.70 8.66	9.30	6,132,127	6,132,127	49.06	49.06	3.77	1,760,200	65,079	782,500	3,122,240		05,612,045
reen Mountain	139	12.50	5.90	4,735,086 5,073,617	5,187,177	43.56	41.86	5.44	973,601	45,754	449,375	2,067,125		54 648 096
comuned, Conodo	57	9.50	7.00	2,720,806	2,862,765		37.37	3.73	292,006 502,456	18,770	130.000	949,920	2,210,411	40,588,946
Hatreem Per	43	8.50	7.50	4,975,624	4,975,624		54.12	4.60	1,361,320	62,632	615,000	2,078,200		28,640,035 58,536,766
withome	33	6.09	7.06	3,712,760	3,925,417		46.80		1,390,605	55,157	420,000	1,400,200		45,696,572
sel Park	120	7.00	8.00	6,769,342	7,197,123		48.36	3.59	805,874	28,794	327,500	3,127,600		96,704,895
elech Perk	40	8.50	7.50	6,486,492	6,486,492		47.09		1,907,791	76,375	830,000	2,225,000		76,311,677
Hywood Pork	75	7.72	9.33	17,457,230	17,571,438		44.30		3,015,303		2,725,000	4,914,500		26,147,768
lierson Downs	27	10.25	4.02	2,698,555 1,806,387	2,028,534		57.04	6.78	246,808 607,700	16,604	15,000	1,612,200		24,187,215
10% 0	60	10.25	4.75	2,733,736				5.11	444,510	39,905	245.000	1,316,460		17,623,303
urel Roce Course	75	9.74	3 38	6,834,195				5.47	935,436	50,786	375,000	1,233,950		70,157,720
coin Downs	82	7.50	8.50	5,000,907				3.35	831,155	26,988	7.5,000	2,213,052		66,678,771
coln, Nob.	25	10.64	3.36	662,900			15.90	5.42	249,160	13,520	17,500	320,504	338,004	6,227,002
dison Dewns	13	13.77	.23	146,161				7.36	81,562	6,015	1,000	77,200	78,200	1,061,617
bore	18	10.50	5.50	1,097,935				5.73	580,918	37,673	50,500	533,228	509,825	0,456,533
es Pod	51	10.25	4.75	1,548,436				5.61	296,209	17,064	23,500	846,800	879,090	5,104,693
regariers Park	60	7.70 6.45	9.30	3,081,154				3.70	,917,101	69,581	815,000	3,359,900		5.026,076
le on Port	50	10.00	6.00	4,921,486				.93	984, 297	19,196	T25,000	7,708,516		6,460,126
Tree	20	9.10	3.95	7,958,975					625,120	77,775	465,000	1,040,300		2,502,412
à Jellerson	48	T1.00	3.00	439,259				.44	83,192	5,364	11,100	246,400		3,993,262
Nico Roce Course	60	9.66	5.34	5,983,316						55,592	349,000	2,786,536		1,939,096
Perk	68	10.00	5.00	1,347,243		63.53 6	1.13	.35	198,124	12,463		847.500		3, 472, 434
stonion	12	9.75	5.50	798,579						33,445	53,500	347,850	405,414	8, 190,552
and Couns	75	10.00	5.00	2,467,415						14,363	-6. c-1	1,077,250	1,088,022 2	4,674,151
none	50	9.75	7.09	1,114,596						38,226	95,000	440,170		431,750
een City	50	9.54	7.46	1,907,968						24,196	17,500	728,400		.987,667
doli Park	50	9.57	7.43	1,717,444						20,220	45,500	965,500		990,477
kingham Park	77	8.45	8.00	6,307,798						36,853	95,000			659,391
2000	14	9.75	5.50	587,059						24,746	55,000	291,453		.021,120
Moteo	12	9.75	5.50	844,384	884,828	9.15 46	6.91	.79	721,696	14,248	67,500	343,482		.660 353
e Anite Per	75	7.74								90.349 2,	059,200	4,717,000		190,409
e Rose	12	9.75	5.50	643,317						26,344	26,000	288,135		,598,125
loge	24	8.00	9.00	2,909,745							707,500			,371,823
berough Downs		10.25	5.75	5,142,081						9,756		556,108		462,057
endeah Deums		7.75	5.50	549,328						15,369	25,000			166,654
smon's Park	17	8.00	7.78	4,701,433							252,500	1,904,400 2	307,785 5	634,135
ton		9.75	5.50	351,003			.07 3.			0,138	10,000	193.582	205,645	70 174
il Downs	136	7.30	6.50	8,373,003			20 3.						387,341 114	319,925
111	30	V.51	7.49	1,975,336	7,113,758 54	1.78 51.	.10 5.	20	15,545	1,464	00,000			777,272
eren	55	8.68	6.37	4,419,534	4,855,296 54	1.11 49.	.25 4.	4	26,103 4	3,052	55,000	2,012,900 2	391,683 50,	935,717
riedo em		9.49	7.31	1,970,157	2,118,299 60	36.	21 5.			3,636		1,006,800	,190,758 20,	763,418
niue .			5.50				05 5.			2,212		773,098	779,618 14,	140,361
col Fork			7.50			.01 57.						7,046,600 2		770,036
Paradi sa		7.35					6.				64,400	515,000		310,818
ington Pork				4,957,314		.78 52.			53,666					314,447
lard Park						.66 36.								39,404
orn Canada Racing Ass'n.				5,424,964		.49 \$3.							674,879 32, 423,627 57,	104,826

Guy Hottel, Executive Secretary and Treasurer

	044	TRAC			TRACK TAKE	MORSEMEN'S MONIES TO TRACK TAKE	HORSEMEN'S WOMIES TO TRACK TAKE		MANOLE	DAILY AVERAGE PURSES	e STARE	PURSES BITHOUT STAKES	PAID TO HORSEMEN	**************************************
Ak-Sor-Bon	- 138				4,416,303	_ 51.70 _	-46.37 -37.51	- 5.22 2.33	457,389 3,513,574	44,525 81,976	385,000	1,663,150	2,049,150	39,209,91
Aqueduct Arizona Downs	40				1,159,667	38.88	48.00	6.12	227,146	13,917	27,500	527,700	11,312,400	9,045,86
Arlington Park	31	6.2		3,380,219	3,601,845	52.75	49.50	4.33	1,327,790	\$7,012	415,000	1,352,400	1,763,246	41,145,77
Assimbore Downs, Conode	56	12.0		5,849,151	1,186,873	50.31	48.42 53.73	3.72	1,406,455	10,262	96,910 585,750	2,487,300	3,142,750	9,518.63
Arched Park	79	10.9		459,664	507,836	51.64	46.74	5.65	1-144,711	8,186	7,000	735,400	737,400	4.196.64
Bolmani	36			2,685,331	2,872,926	56.02	52.36	4.74	880,323	41,438	85,000	1,406,800	1,504,440	31,691,64
Boy Meodows Boimont Park	54	6.00		13,385,292	13,852,662	53.21	47.41	3.09	3,098,447	95,784	2,090,000	4,806,500	6,876,500	47,814,73 273,088,22
Bouleh Pork	- 50	9.21	7.48	1,805,501	1,959,911	57.18	52.68	5.28	371,879	19,760	76.750	721,750	1,032,456	19,575,981
Blue Bennets, Conade	_ 63	9.50		2,637,636	2,785,199	49.16	46.56	4.67	440,707	20,585	67,500	1,229,400	1,276,200	27,764,57
Cohokie Downs	75	9.16	5.00	2,364,634	4,792,955	58.77	55.71 47.38	4.70	344,105	15,761	386,000	1,127,125	2,666,728	56,763,254 25,607,884
Colder	121	10.50		3,782,869	3,782.869	76.73	76.73	8.05	297.858	23,944	125,500	2,771,725	2,902.634	36,040,874
Contennial	60	11.64	4.36	1,925,338	2,075,885	56.92	52.79	6.67	275,610	19,093	114,500	2,520,300	2,545,503	16,536,639
Charles Town Rate Course Churchill Downs	132	10.25	5.75	3,422,575	3,898,770	51.05	47.16	4.57	803,721	36,037	410.000	1,317,800	1,747,271	38,576,676
Cincinneti Turi Club	- 50	9.06	7.44	7,664,311	1,819,381	53.20	48.74	4.87	367,344	17,276	26,250	837,550	A86.837	18,347,21
Columbus	21	71.17	2.96	422,922	469,560	49.65	44,72	5.46	182,344	10,000	6,000	204,010	210,010	3.429,214
Continental Cranwood	- 50	10.00	7.46	1,836,700	8,796,392	-47.47 51.47	45.54	4.74	1,016,730	19,324	61,250	854,950	4,006,364	19 274, 801
Delevere Park	- 61	11.00	5.00	4,839,106	5,049,123	56.20	53.86	6.18	721,176	44,273	\$00,000	2,200,700	2,717,604	43,991,878
Del Mar	43	7.62	6.58	3,685,837	4,315,602	56.86	48.57	4.33	1,124,862	48,748	445,000	1,629,702	2,095,937	48.367,101
Detroit Roce Course	90	12.50	6.00	1,030,496	6,667,326	52.51	64.03	8.33	152,666	12,524	527,500	680,072	3.268.975	8,743,772
Dover Downs Eagle Downs	- 54	10.00	5.00	6.670.011	6.940,601	48.06	46.18	4.80	975,524	47,385	375,000	2,797,851	3.205,778	66,760,117
El Comandante, P. R.	750	24.06	9.58	13,383,986	13,383,986	45.81	45.81	11.02	347,803	38,567	428,000	5,704,204	6,137,204	55,618,707
Ellis Pork, James C.	39	10.25	4.75	1,369,154	1,551,707	50.96	50.60	6.25	177,589	11,043	25,000	795,172	697,737	13,357,601
Evangeline Downs Foir Grounds	74	9.88	6.12	- 1,562,855	7,219,869	53.20	51.30	5.36	683,835	36,360	277,000	3,395,399	3,704,213	69,067,397
Formount Perk	75	9.06	6.94	2,563,370	2,708,739	47.03	44.51	4.76	377,278	15,917	49,000	1,144,810	1,205,748	28,272,136
Finger Lokes	126	12.03	2.44	1,230,229	1,230,222	64.33	64.33	7.74	291,700	15,000	20,500	1,842,500	721,500	10,221,442
Florido Downs Fonner Park	36	70.52	3.46	807,948	904,182	47.08	47.07	-4.95	255.782	12,680	23,000	357,400	360,400	7.677 482
Fort Erie, Conade	56	9.50	7.00	2,884,741	3,063,921	59.54	56.06	5.65	542,743	27,421	325.000	1,233,027	1,717,741	30 365 556
Gorden State Park	60	0.68	8.20	7,534,118	7,534,118	53.81	53.81	4.15	1,860,427	41,948	705,000	3,264,800	4,054,700 2,330,363	36.096,103
Goldon Goto Fields Green Mountain	136	7.53	5.93	4,786,102	4,972,189	43.18	41.57	5.39	281,535	15.050		2.046.700	2,067,085	38,288,820
Greenwood, Conede	57	9.50	7.00	2,768,639	2,942,140	47.51	44.71	4.51	511,289	20,218	120,000	1,032,426	1,315,517	29,143,527
Gullstreem Pork	43	8.50	7.50	5,489,543	5,489,543	46.83	46.83 55.66	3.98	764.840	16,072	535,000	2,036,100	2,571,100	4.767.135
Hagers town	18	7.98	7.77	4.078,722	4,338,367	58.32	47.09	3.99	1,460,702	57.825	437,500	1,586,400	2.042.986	51,124,663
Hosel Park	90	7.00	8.00	6,089,809	6,525,610	54.22	50.59	3.79	946.634	36,458	342,500	2,738,800	3,301,950	86,997,276
1.elech Perk	40	8.50	7.50	6,841,679	6.841,679	44.49	43.08	3.78 2.85	3,082,715	76,100 87,220	- 800,000 - 2,091,500	- 2,244,000 4,450,000	3,044,000	231,203,650
Kellywood Perk Keeneland	75	10.11	7.44	1,636,461	15,334,816	71.77	63.67	7.26	539,737	39,150	245,000	927,500	1,174,500	16,177,115
olonie	55	9.69	4.78	7,261,932	2,545,036	50.84	45.18	4.92	424,363	20,761	35,000	1,103.600	1,150,100	23,341,095
eurel Roce Course	57	9.60	5.32	5,466,268	5,727,529	57.35	54.73	3.31	998.403 718.916	54.673 23.688	\$20,000	- 2.587.756 - 2.321.478	3,135,228 2,345,205	70,456,800
incoln Downs	78	7.08	8.03	585,323	654,471	51.58	46.13	5.53	218,129	12,077	11,500	290,425	301,975	5,453,226
Addison Downs	13	14.00	0.00	138,341	151,082	48.54	44.45	6.79	76,011	5,166	1,600	66,160	67,160	988,149
der iber e	18	10.50	5.50	1,198,566	1,251,666	51.57	47.38	5.41	634,162	34,027	15,000	577,403	618,110	11,414,920
Anies Perk Anneuth Perk	60	6.63	8.22	7,951,401	7,951,401	49.27	49.84	3.30	1,997,806	64,636	815,000	3,063,500	3,963,200	16,015,498
iorregensett Park	90	7.50	7.96	4,891,453	5,193,337	44.31	41.74	3.32	724.657	23,778	7.500	2,140,066	2,167,866	65.219,379
Johlawn Park	50	10.00	6.00	4,336,692	4,474,491	48.67	47.17	4.86	867.338	41,606	107,500	1,762,900	2.110,999	43,366,921
Dob Tree	20	8.00	4.00	2,384,295	456,158	63.72	57.77	7.03	79,750	5,607	387,500	923,500 225,266	1,323,940	3,748,239
Pork Jefferson Pimlico Roco Courso	52	8.00	5.00	5,100,709	5,372,632	55.49	52.48	4.43	1,226.132	54,148	605.500	2,210,200	2,830,509	63,758,873
lessenton	12	9.00	5.00	663,430	707,656	52.07	48.82	4.68	614.286	28,500	55,500	286,506	345,496	7,371,440
econe Downs	94	8.77	4.57	974,814	1,046,170	59.82	51.32	5.33	257,635	13.350	180,000	397,300	1,267,449	23,747,712
omens loceway Pork	50	9.27	7.35	1,573,233	1,712,448	53.64	49.28	4.96	339,431	16,333	21,875	791,775	844,017	16.771.567
lendell Perb	50	9.02	7.48	1,829,910	1,984.854		50.63	4.95	405,578	17,510	80,000	875,500	1,005.042	20.278.927
iver Downs	50	9.08	7.42	5,366,444	1,785,473 5,672,618		47.31	4.10	358,453 871,176	16.436 32,269	24,175	797,775	2,750.473	67,083,557
ockingham Pork	14	9.00	5.00	634,301			46.56	4.47	503.413	27.285	\$9.500	252,476	315,414	7,047,793
on Motes	12	9.00	5.00	686,546	732.561	54.37	50.95	4.87	635,670	30,818	\$4,000	315.617	373.288	7.628.286
ente Anite Perk	48	6.99	7.01	9,184,700			42.44		2,737,743	81,500	1,385,000	2,527,000	3.952.035	5,941 893
into Roso	12	7.00	9.00	535,040 2,435,199			90.29	6.54	475,407	94,941	665,000	1,613,600	2.278.600	34.786.543
oretage orborough Downs		11.26	6.74	1,090,613			71.83	8.84	115,257	10.189		855,934	855.934	9.681.664
henandoch Downs		0.25	5.75					5.12	370,415	18,796	25,000	2,324,500	2,372,995	46 301,916
ione		7.99	7.80	4,727,706			45.26	3.83	455,188	20,350 51,088	4,000	2,022,200	746,697	57,196.367
oction		9.00	5.00	341,552	363,057	57.82	49.69	4.75	377.502	17,861	10,000	168.619	180,433	3.775.025
Holb Downs	90	7.50	8.50	7,022,588				3.63	,040,383	37,407	220,000	3,146.681	3,391,336	93 634,517
ment		9.00	7.50					4.79	896,030	37,382	32,500	1,681,275	2,001,200	47,489,617
interen histodown		8.98	7.52					5.09	423,590	21,407	93,750	976,627	1,079,510	21,179.515
monium	24 7	0.50	5.50	1,757,502	1,843,697	52.12	19.68	5.47	697,421	37,881		909,146	916,106	16,738,122
opical Park	52	8.50	7.50						232,628	14,337	315,000	7,066,000 576,900	2,341,000 636,080	10,003,027
of Paredise		7.96	7.80					3.83	,482,356	56,303	\$20,000	1,718,450		60,776,617
shington Po z		9.50	5.75	7,440,090	6,035,677	34.30	10.28	5.17	259,652	13,285	62,500	3,936,455	4,040,374	78,155.500
storn Canada Racing Ass'n.	106	6.00	3.50	2,805,036		57.49 5	J.90	5.17	294,028	30,800	700,000	1,467,895		31,167,072
odbine, Conode	84	7.50	7.00	5,755,587		19.24	6.44	4.67	721,250		74,810,120	1,004,622		44,981,184

DEFENDANTS' EXHIBIT H - 1969 HBPA PURSE STATISTICS HORSENEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

582a id

RACING STATISTICS - 1969

Guy Hottel, Executive Secretary and Treasurer

	044	****	7445	TARE IN S		**************************************	- PURSES TO		DAILY AVERAGE HANDLE	DAILY AVERAGE PURSES	1744E	PURSES WITHOUT STAKES	PURSES	1014L 440-141 P410	101
Air-Ser-Ben	46	10.11	3.89	3,749,478	4,731,836	50.90	45 10	5.14	806,408	41,494	345,000	1,563,750	1,908,750 (U)	1,974,450	37,094
Agurduct	136	6 00		27,018.625	28,019,479	39 21	37.61	2.35	3,311,106	78.016	2,160,000	0.450,300	16 ,10,300	10,911,900	
Arrene Downs	41	12.57	5.47	980,861	1,058,338	51.35	47.59	6 45	190,213	17,266	28.050	475,700	503.750	530 310	7 779
Arington Park Assin ber Downs, Conede	36	10.11		4,060,097	4.317,643	45.87	43.14	3.66	1,412,737	\$1,743	475,000	1,367,759	1.662,750 (A)	7,010 11578	50 85A
Atlantic City	57	5.97	9.03	5,045.781	1,202,035	49.56	46 63	5.01	199,626	10,010	92,470	468,130	560,600 TAT	682,470 (8)	11,178
Atokad Park	25	11.12	2.88	395.592	5,045.781	41.97	41.97	2.50	1,481,907	37,154	579,650	1,539.168	2,117,818 (A-AA)	2,760,240 (8)	84,468
Baimeral	30	8.72	6.78	3, 380, 447	3,584,695	57.80	47.47	5.87	142,736	8,356		206.900	208 900 ·	708.900	3,555
Bay Meadows	51	7.63	6.37	3.637 184	4.075.129	46 65 56 69	43.99	3.83	1,371,639	57,575	260,000	1,297,265	1,577,265	1,666,740	41 149
Brimont Park	77	4.00	10.00	12,574 568	13.074.374	50.57	50.60 48.65	4.32	734,785	40,434	300,000	1,762,138	2,062,138 (AK)	2.075,438	37.674
Beulah Park	50	9.07	7.43	1,668 963	1,815,177	48.00	44.13	3.03	367,996	16 024	39 950	4,435,200	6, 360, 200	6,907,115	209.576
B ve Bonnets Conade	56	9.50	11.11	7.673,738	2,815,514	40 42	38.39	3.83	502.581	17,301	67,500	761,754	501.204 (A-AI)	879 179 (8)	18 322
Boore Roce Course	52	8.00	5.00	5,148,990	5,437,263	31.07	49.36	4.08	1.237 /38	50.571	376,000	7,235 715	7.060,900 2.629,715 (AD)	1,101,390	78 144
Cahas Downs	60	9.30	5.90	2,144,171	2,271,579	42 79	39.92	3.93	384.707	15,115	39 000	867,949	900, 949 (A.E)	925 874 (B)	64 167
Centennial	57	11.55	4.44	1,918,397	7,086,699	53.98	49.63	6.23	291,209	18.170	114,500	921,200	1.035 700 (AP)	1 112 635	16,598
Charles Town Roce Course Churchill Downs	30	9.67	5.75	3,971,406	4.368.952	47.58	43.05	4.60	342,033	15.747		1,849,710	1.869.710	1 849 710	41 013
Cincinneti Turi Club	50	9.12	7.38	3,565,112	4,004,891	50.74	44.18	4.66	776,174	36, 165	401,200	1,408,047	1,809,292	1.740.667	36 864
Columbus, Neb.	21	11.14	7.86	1,526,157	1.669,092	48.21	44.08	4.39	334,676	14,715	49,125	684,650	733,715 TA-AET	826,400 781	16.733
Continental	34	10.00	5.00	2,019,060	2,119,868	52.02	46.39	5 70	166,669	9.661	6,000	196,900	202.900	205.610	3.500
Cronwood	50	9.10	7.40	1,598,656	1,717,015	70.75	67.38	7.07	593.841	42.014	195,000	1,233,485	1,428,485	1.461.720	20,190
Dr. owere Park	60	10.50	5 50	4,977 888	5.218.467	49.67	46.19	4.51	351,232	15.865	51,250	742.006	793,256 (A-AF)	694 161 (8)	17.561
Dr. Mar	42	7.12	6.28	3,198,271	3.575.932	55.74	53.17	5.65	790,141	46.751	507,500	2 272,590	2,775,090	2.864,580	47 408.
Detroit Race Course	1 00	7.00	8.00	5,775,982	6,179,262	56.91	50.90	4.39	985,806	43,338	430,000	1,390.216	1,820,716 (\$)	1 740,436	41,403.1
Dover Downs	54	17.50	4.50	1,010,058	1,055,748	75.52	72.75	3.43	149,638	31 500	462,500	2,377,546	2.835,088 (A)		87.514.
ogie Do-ne	1 55	10.00		7,221,681	2,314,440	65.84	63.20	6.54	673 237	14.126	325.660	762,815	762,615 (1)	762,815	8.080
Comundante, P. R.	156	72.66		11,769 465	TI 890 130	45.53	45.07	10.32	337.643	34,355		1,137,898	1.467.898	503 348	22.716
Ilis Park, James C.	30	10.00		1,785,228	1,459,945	50.78	44.70	5.07	329,545	16,734	428,000	4,931,415	5,357,415	5,435,575	51,892
van jetine Downs	70	12.05	3.95	1,314,710	1,379,810	48.47	46 14	5.83	155,829	9.094	16.000	657.656	652,656 (0)	657.656	12 852
a · Grounds	101	0.97	5.99	6.263,349	6,642,897	46.95	44.77	4.68	622,144	29 119	243,500	620.646	636.646 (A)	642,566 (B)	10,908
armount Park	60	0.35	6.40	7,072,139	2.188.527	45.73	43.30	4.27	367 175	15,795	51,900	895.843	2,941,019 (A-F)	3, 388, 519 (8)	62.836.1
inger Lokes	127	9 98	6 02	3,725,996	3.827.718	51.23	49 97	511	794.050	15 031	42.500	1,866,500	1,929,000		22 15.
orias Downs	56	12 80	2.20	1,302.962	1,425,303	59.75	54.63	7.64	181,815	13.904	29.000	749 650	778.650		37,741
onner Park	70	10.60	3.40	706.009	794,170	51.71	45.74	5 49	229.658	12.590	19,000	316,125	365 125	789,355 377,340	10 121,6
per Erre, Canada	56	9.32		2,597,179	2,739,344	53.62	50.84	5.00	497,196	74.977	332.950	1.059 894	1 302 844 (A)		6 660,0
orden State Park	63	5.82	8.99	7,197.361	7, 197 361	36.4	38.47	2.24	1 961 720 1-	43 960	755,600	2,014,511	2,760,511 (A-AL)		7 842 4
iden Gate Fields	55	7.55	6 44	4,093,399	4.677.975	54 97	48.15	4.15	985.208	40.912	375 000	1,855,192	2,250,192 (H)		23,546,4
een Mountain		12.50	5.88	3.995.314	4,164,478	43.23	41.48	5.40	273,183	14.765	15 000	1,712 505	1,727,505 (AC)		1.90.5
ren-ood, Canada	54	9.30	7.00	2,738.811	2,909.587	43.37	40.82	4.03	545.519	21,996	111.100	1,076,803	1,187,900 (A)		9 458 0
itstream Park	43	7.00	8 00	4,491,530	4,824,083	49.46	46.06	3 46		\$1.674	480,000	1,742,000	3,722,000		4, 170, 4
gerstown, Md.		10.42	3.56	537,012	570,146	53.21	50.20	5.54	286,745	15,903	-	286,262	786, 262		5 161,4
witherne	35	8.12		3,635,277	3,876,923	46.56	43.94	3 80	1,279,104	48.673	415,000	1,288,567	1.703.567 (A-Q)		4.767.6
rel Park	90	7.00		6,529.670	7,040,976	48.62	45.10	3.40	1,036,455	35,289	345,000	2,791,073	3,174,073		1,281,64
olean Park	40	7.00		5,767,803	6.064.597	45.63	43.54		2.067.072	65,025	720,000	1,921,000	2.641.000		2,667.70
llywood Pork		6.57			4,923,602	43.37	42.95			85.475	2,072,500	4,338,152	6,410,652 (M)		4.650 %
eneland		9.05		847 325	1,175,475	69.10	50.99	6.91		35,506	245,000	820 250	1,065.250	1,160,550	5,4.4,61
urel Roce Course		8.00			4,434,535	50.84	51.57	4.60		17,394	35,500	903,817	939,317 (AB)	949.367 7	415.50
coin Downs	1 40	7.50		735 850	5,051,056		41.90	7.33	789 306	41, 433	480,500	1.875.304	2,375 408 (AG)		7,343,00
coin, Neb.		0.78		553,649	628,789		45.36	3 55		26.46	17,566	2,079,425	2.116.925		144,67
Len Downs, Neb.		3 65	35	149,704	165 350			6.96	73.135	5.106	11,000	76.600	285,400 (V)	291,425	136,49
bore		8.71	5.70	923,510	981,249			4.85		28 598	15 000	499 778	514 776	76,606	047.63
r. Para	51 1	0.00		437 648	1,656 929			3.36		15.173	56 830	717.036	112 466 (P)		.606.37
mouth Perk			9.15 6		6.674.157					18.063	720,000	2,115,724	2.435.724 (A-AM)		375.46
o mart Park	76	7.50			1,399,874			3 41		14.747	40,000	1,840,797	1,680 797 (AO)		075.58
oun Pers					102.144			405		6 965	160,000	1,748,765	1,848,265 (A-O)		049 54
Tree	20				2,703,943			4 49		5,610	415 000	897,719	1,312,219 (AJ)		769,971
Jellerson				416,196				6.16		4.965	11,500	221 995	223,395 (A)	1,394 694 29 263 383 (8) 3	
-co Roce Course	52	1.00	5 00 4		293.167	54 36				1913	\$45,000	2,154,520	2,699,520 (G)	7,163,720 62	783.606
santon, Cel.				608 333	648 332	52.41				6,570	34,500	264 349	318.848 (Z)		759,766
me Downs					,121,327	56.02	33.77	5 60		5.027		1,140,795	1,140,795		363 697
one, Col.								5.30	837,347	5,048	187,500	443 182	630,682 (Y)		722 654
-oy Port		.95	7.55	526,320 1				1 37	341 020	4,011	26.250	719,335	745,585 (A)	823.965 (8) 17	05 070
ell Perk	50 9	.04	7.46							6,46	77.500	765.574	843.094 (A)	955 244 (8) 19	510 569
Downs						50 39				5,007	49, 125	705.736	754.661 (A)		400 52
ingham Perk										2,184	195,000	1,014.486	2.109,486 C)	7.173,686 36	03 758
mente, Col.										1 299	59,500	266,695	326 195 (N)	330 030 6.	565 250
largo, Cal.		CHI CHIMANONI	00 6	52,3AA	697,974					000	58,000	275,711	333,711	339 536 7	748, 10.
Anita Park	75 6		31 12.0								726,500	3,761,426	5, 467, 926 (C)	795,926 189	67,611
Roso, Col.										341	5,000	251,094	756.094	258,119 5.1	80 1 8
orens	54 10									,000	648,750	1,506.460		200 165 31.6	21,322
									18.767 8	,A11		475.832	475.832	475.832 6.4	24,225
ndosh Dames										797	25,000	2,430,411			14 058
o, Cal.										752	4,000	221,033	725,033 (K)		18.451
ron's Park	men compression or	- commences or	THE BOOK OF THE								223.000	2,176.356		474 606 (8) 66.1	\$6 695
Downs	90 7									372	10,000	163,727	171,727	174,577 3.5	10,969
- Dami													3,458,126 (1)	531, 266 #5.9 842,028 (5-17,6	11, 13
1	50 9.									042	37,506	714,641	752, 141 (A)	842,028 (1 17,6	40,069
	50 9.0	6	35 3.5	33,073 3,5					84, 207 36,		300,000	1,678,559	1.978.559 (2)	004,334 46.1	86,773
			12 1.50			76 44		35 3	90,329 17, 57,053 35,	002	98,750	751.392	850 147 (A)	965 917 (67 195	6.457
al Park	74 8.6 52 7.0					69 44				278	150 Dag -	845 487	845,487	845,467 16.9	19.36
			00 3,70	4.00		1 69 44	32 3	1,0	7.617 34.			1,543,960	1,803,900	845,425 52,9	4. 02
	37 8.1	0 1 3.0	61 1,09 68 4,30	2 -43		44 49			6,262 13,		26,000	507.100	535,100	547,535 8.6	7,567
ord Perk	37 8.1	1	4,30	# 46A				7	4,242 12,		646,405	1,410,146	2,256 551 (A.W) 2	845, 467 16, 97 845, 425 52, 9 542, 535 8, 6, 773, 269 (8) 53, 60	8,143
n Conode Racing Ase'n.	37 0.1 068 9.2 06 9.0 37 11.3	0 1 5.7	N 27	5 848 3 a		6 54	11	8 28	3,631 14,	806		3,375,277	3,432,777 (AM) 3,	438,032 73,45 598,677 30,06 356,228 6,45	0,948
ng Downs	17 11 1	1 3	2 1 22	1415		55 45.				629	50,000	1,405,862	1,555,662	30,00	4.984
1.00	80 9.3	1.0	0 5,278	413		97 41.					71.650	356,228	356,726 2,320,960 (A) 2,	356,228 6,45 875,530 (8) 56,67	6 717
ne, Conedo															

Average: 5 Purses to Track Take

4.61

NOTE: All Track Banuses and M. B.P.A. Deductions have been included in Purses figures.

A. Exclusive of purses and by the State or Government.

B. Includes purses and by the State or Government.

C. Underage of 323,000 to be added to 1970 purses.

D. Underage of 33,231 to be added to 1970 purses.

D. Underage of 33,231 to be added to 1970 purses.

F. Underage of 32,773 to be added to 1970 purses.

G. Underage of 523,723 to be added to 1970 purses.

H. Underage of 523,723 to be added to 1970 purses.

H. Underage of 523,723 to be added to 1970 purses.

H. Overage of 523,723 to be added to 1970 purses.

J. Overage of 519,365 to be added to 1970 purses.

L. Overage of 519,450 to be deducted from 1970 purses.

L. Overage of 519,450 to be deducted from 1970 purses.

M. Underage of 519,456 to be deducted from 1970 purses.

M. Overage of 519,450 to be deducted from 1970 purses.

M. Overage of 519,456 to be added to 1970 purses.

M. Overage of 52,556 to be added to 1970 purses.

G. Underage of 52,556 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

C. Underage of 54,756 to be added to 1970 purses.

S. Uncompa of 50,711 to be odded to 1970 person.

T. Overage of 51,872 to be deducted from 1978 person.

V. Underage of 50,700 to be added to 1970 pursus.
W. Overage of 50,700 to be added to 1970 pursus.
W. Overage of 51,2350 to be deducted from 1970 pursus.
Y. Overage of 51,2350 to be deducted from 1970 pursus.
Y. Overage of 51,265 to be added to 1970 pursus.
A. Underage of 51,265 to be added to 1970 pursus.
A. Underage of 52,957 to be added to 1970 pursus.
A. Underage of 52,950 to be added to 1970 pursus.
A. Underage of 53,050 to be added to 1970 pursus.
A. Underage of 51,075 to be added to 1970 pursus.
A. Overage of 52,072 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Overage of 51,075 to be added to 1970 pursus.
A. Underage of 51,075 to be added to 1970 pursus.
A. Underage of 51,075 to be unded to 1970 pursus.
A. Underage of 51,075 to be unded to 1970 pursus.
A. Underage of 515,021 to be added to 1970 pursus.
A. Underage of 515,025 to be pulsar to 1970 pursus.
A. Underage of 515,025 to be pulsar to 1970 pursus.
A. Underage of 515,025 to be pulsar to 1970 pursus.
A. Underage of 515,025 to be pulsar to 1970 pursus.
A. Overage of 52,025 to be pulsar to 1970 pursus.
A. Overage of 54,065 to be pulsar to 1970 pursus.

Signal and the state of the sta

DEFENDANTS' EXHIB. 7 J - 1968 HBPA PURSE STATISTICS HORSEMEN'S BENEVOLENT AND PROTECTIVE ASSOCIATION

RACING STATISTICS - 1968

Ger Hettel, Executive Secretary and Treesurer

	Dey	Tre		e Mutuel	Track Yake and Breakage	% Pursos	Track Take	5 Purses te Handle	Daily Average Hendle	Daily Average Purses	State Reces	Purses Without Stakes	Total Purses Paid	Total Amount	
Ai-Sar-Bon	45	10.1				50.76	45.25	5 13	785,059	40.293	364,000	1,469,500	1,853,500 (P)	1,915,700	34, 112,71
Aqueduct	139	6.0				40.15	38 58	2.38	3,245,526	77,335	2, 152, 500	8,597,100	10,749,600	11,062,160	451, 128 24
Anzone Downs	41	12.5				49.46	46 08	6.22	187.697	11,678	29,000	447.800	1,959,501	483.745	7,595,61
Artington Perk	36	7.8	7.			44 42	41 60	3.50 4.71	277,661	13,786	12,000	677,320	689,370 (A)	755, 440 (B)	14,433,07
Assorbera Demas, Canada	50	9.2				55.67	52 40	301	190,605	7.550	50,500	484,300	534,800	565,217	10.5/3.21
Atlantic City	60	1 6.4				48 59	48 59	3.12	1,520,917	47,599	544,700	2,310,694	2,855,384 (AF)	2,932,084	91,255,066
Arakos Pork	22	11.1				48 42	43.01	5.38	161,205	8,686	5 000	186, 100	191, 100 10	192,940	3,546,57
3 al moral	30	8.2				45.83	44 00	3.85	1,346,971	51,964	315,000	1,243,926	1,558,975 2,071,736 (AA)	1,576.301	47, 307, 17
selment Park	101	7.6				55 22	53.37	3.06	808,356 2,885,168	33,762	1,909,500	4,360,900	6, 770, 300	6,766,470	204,845,954
Persone Downs	24	7.5				51 01	61.90	5.02	157,777	7,718	1-1,101,200	120,055	170,055	170,035	3,795,35
evian Pork	50	9.1				48 85	44.89	4.45	342.012	15,223	107, 200	453,761	761,141 (A)	A51,533 (C)	
live Bennets, Conade	36	9.00	8.2		2,499,773	40 80	38.57	3 67	458,794	17,217	57,500	906,700	964, 200	980,410	25, 252, 50
owie Rose Course	52	8.00				50 35	50.38	4.76	1,170,789	49,976	418,500		2,578,773 (D) 951,704 (N)	764,687	21,670,73
enetre Dewns	60	9.3			2, 143, 221	46 79	44 40	603	257,627	15,961	82,500	897,204	845,900	943,540	14,594,74
entennial Rock Trock	103	11.66			1,874,643	51.73	43.47	4.45	270,259	12,047	- 62,500	1, 240, 836	1,240,396 (U)	1,740,385	27,836,57
hories Youn Roce Course	43	8.87			2,854,083	51.90	45 12	4 60	768, 201	35,391	390,000	1,141,618	1,521,818 (Y)	1,675,168	33,032,54
incinnati Turi Club	50	9 10			1,704, 192	48 45	44.70	4.41	345,345	15, 236	102,000	659,318	761,818 (A)	950,413 (8)	17, 257, 28
alumeus, Neb.	21	11.20			417, 231	49.16	43.86	5 51	158, 207	A,719	6,000	177, 100	183, 100 (M)	184,950	2,322,351
renwood	50	9.07			1,683,292	46.83	43 76	4 27	341,075	14,573	45,500	683, 196	728,696 (A)	815,521 (6)	57,768,274
elouare Park	61	9.50			5,965,059	50 81	46 36	487	979,806	47,797	352,000	1, 162, 853	2,885,155 (1) 1,514,853 (AG)	1,616,148	37, 341, 231
el 40	42	7.80	6.19	2,913,886	3,062,161 5,654,080	51.98 48.37	49 47	3 39	901,115	36,067	391,000	2,172,107	2 553, 107 (A-V)	2.841, 377 (8)	75.693.719
I Comendante, P.R.	157	23.07	8.62		10,495,505	48 37	45 58	10.71	284,328	30,475	418,450	4, 366, 280	4,784,730 (A)	4.850.745	44.639.679
His Port, Jones C.	41-	10 00	4 00		1,380,076	47 95	42.22	4.79	276.350	14,211		582.685	582.586	582,686	12,150 7/7
vençeline Downs	74	11 93	4.10		1,261,644	49.81	44 74	5.77	110.613	7,543	17,000	541, 227	558. 227 (A-Z)	713,832 (8)	7,65' 2.7
a. Grounds	137	9.31	5 95	5,760,154	6, 233,956	49 20	44.53	4 45	573,004	25,948	273,500	2,552,972	2,776,472 (A-E) 730,326 (M)	939.896	27,636,557
termount Port	60	9.32	5 57	2,110,924	2,234,492	44.07	4163	4.92	377, 275 230, 135	15,505	31,500	1,701,750	1,724,750	1.745.610	15.207.062
mar Leter	55	10.05	263	1,059,882	1,214,973	59.04	51.50	6 59	172,588	11,378	23,000	602,900	625,800	635, 205	9,477,382
Poner Para	79	10.58	3.41	723,221	810,532	48 79	43.53	5 16	235.593	12, 168	6,000	346.875	352.875	360,050	24, 114, 415
at toe Canada	54	9.00	7 00	2,170,296	2,309,947	53 04	49 83	4 77	446,543	22,417	265,000	2,555,684	3,281,684 (1)	3.577.414	114.243.363
ereen State Park	60	6.35	8.15	7,255,831	7,255,831	45 22	45.22	287	957,495	41,369	725,000 360,000	1,708,453	2,068,453	2,110.428	47,874,769
pieen Gate Fields	50	7.62	6 37	3,551,233	3,604,071	56 65	40.01	5 06	275.862	11,436		1,452,446	1,452,446 (0)	1.452.446	28.684 554
reen Mountain	66	9.00	7.00	3,473,514	3,629,580	41 81	40.69	3 90	532,351	21,116	150,000	1,222,343	1,372,343	1,593,458 (A)	35, 135, 190
renesad, Congde	43	7.00	8.00	4,427,848	4,707,012	47.03	44.74	3.79	1,437,513	47.334	440,000	1,642,700	2,062,700	2,213,375	63,254,979
ogerateum, Md.	18	8.42	4.57	444,472	479,633	54.30	50 29	4.57	293,231	13,408		241, 350	241,350	241,350	5.778.171
winerne	35	8.05	6.94	3,825,857	4,062,061	46.71	43.99	3.76	1,357.492	51.065	440,000	1,347,306	1,767.306 2,890.221 (A)	1,883,856 3,156,921 (E)	82 663 228
Let Park	84_	7.00	8 00	5.800,425	6, 265.515	49.82	46 12	3.48	965.467 1,945,658	63,820	306,700	1,824,000	2,487,000	2,596,800	75,717 700
alesh Park	75	7.00	7.38	5,314,379	5,521,167 [4,133,779	45.83	43.31	2 89	2,819,342	81,634	1,967,000	4,153.578	6, 122, 593	6,492,723	211,450,459
Higwood Pork	32	10 00	4.00	1,600,624	1,631,325	72 06	63 00	7.0	500, 175	36.054	260,600	893.750	1,153,750	1, 27 2, 295	16.006 .45
reneland 160 mil	57	9.94	4.15	1,919,959	2,168,465	47.99	42.49	472	347,096	16,166	65,000	856,473	921,493 (AE)	943.043	57, 320, 853
weet Roce Course	53	8.00	5 00	4,585,648	4,873,580	47.64	40 71	397 ,	1,061,525	74 352	7,500	2,038,034	2,276,661 (G) 2,045,584 (AB)	2.046, 174	64 524 141
neeln Downs	64	7.50	8.37	4,874,309	5,154,777	42 40	39 68	5 30	755,763	10.664	6,000	NO.600	265.500 (5)	268, 360	5 024,633
ncoln, Net	25_	10.79	1.88	144,950	159,809	54.43	49.37	751	67,967	5,260	2,000	75,900	78,900	69,575	1,049,551
dison Downs, Neb.	18	7.71	5.28	807,659	866,577	52 19	48 64	402	581,475	23,470	10,000	411,576	421,575	423,901	16,4(0,557
les Park	51	10.00	4.00	1,678,867	1,845,510	50 87	44.83	5.08	317,365	16.232	47.575	780,278	3, 203, 034 (F)	3,378,639	111,778,638
nmouth Park	56	6.35	8.14	7,106,718	7, 106, 718	45.07	45 07	7 86	786 488	37,197	7 500	1,727,763	1,735,263	1,736,763	51,968,208
trasease" Park	65	7.50	8.50	3,873,115	4,155,704	44 57	41 75	3.34	715.925	33, 190	105.000	1,554,545	1,659,545 (A-C)	1,742,530 (8)	35,794,263
kleen Pork	50_	11 00	4.00	3,579,628	3,686,630	56.39	52 53	6.42	71,132	4.50	15.400	222,200	237,600 (A)	290 126 (8)	3,676,698
re Jefferson	52	8 00	5.00	4,943,333	3,147,864	54 81	31.57	4 30	T.164.262	51.059	\$22.750	2,132,349	2,455.079 (H)	2,748,099	60,541,568
mico Roce Course	12	9.00	5 00	544,470	584, 261	54 61	50 89	4.91	504,138	24,782	45,500	251,865	297.345	635 170	6 049 653
mone, Col	14	8.65	5.21	1,093,797	1, 183,419	55 34	52.08	4 87	902,915	44, 250	37,500	450,350	616,350 659,296 (A)	724 891 (6)	15, 300, 753
ceway Park	50	9.21	7.28	1,410,435	1,539,742	46.73	42.01	4 30	304,135	13,185	93,500	784.774	878.274 (A)	980,049 (8)	19 863 109
ngeli Perk		9.04	7.45	1,796,261	1,941,376	48 89	45 73 -	4 38	313,564	13,757	98,500	589,369	687,869 (A)	830,777 (8)	15,678,749
rei Dama	50	7.50	7.31	4, 168, 269	1,576,839	47 63	44 81	3 57	T.089.743	38,932	775,000	1,760,559	1,985,559	2,000,209	55 575,733
chinchen Ped	14 .	9 00	5.00	511,993	543, 395	68 31	64 36	6.14	406.343	24.982	59,500	280,750	349,750 (AC)	356,900	5.698.813
Motro, Col.	17	9.00	5.00	575,257	615,117	54.47	50.94	4 90	532.645	26.114	1.033.900	3,653,096	313,370 (L) 3,485,996	317,515	188 339,684
nte Anite Perè	72	6 69	7.30	12,600,381	12,746,330	43.54	43 04	291	2,615,878	76,208	5,000	238,637	243.637 (X)	245,562	4.829 583
nte Rose, Cel.	12	9.00	5.00	434.662	458,014	92.27	52.05	5 04	1,348,227	87,093	A12,500	1,477,500	2.090.000	2, 248, 125	37, 357, 457
0050	24	7.00	7.00	676,476	737.646	55.85	51.22	614	87.963	8.996		377.846	377.846	377,846	6,139,789
erperaugh Downs	42	9.25	5.75	4, 372,972	4,904.243	42.49	38.06	3.93	327,802	12,962	25,000	1,841,581	1,866,581	1,894.531	4,196,639
eno, Cel.	12	9.00	5 00	377,698	405,692	55.12	51.31	4.96	349,719	17,350	6,000	202.200	208, 200 (AD) 2, 393, 215	211,390	66,300,013
ortmon's Park	49	8.00	7.52	5,304,913	5,654,826	45.11	42 32		1,353,062	48,841	223,000	150, 439	157,939	158.874	3,454,468
ckton, Col.	10	9.00	5.00	311,804	332,130	50.65	47.55	4 47	346,448	15,793	7,500	2,333,656	2,461,156 (K)	2,492,166	70,770,920
Hola Downs		7.50	7.50	5,307,810	5,683,467	46.35	51.87	4.13	868,600	35,955	290,000	1,579,660	1,869,660 (W)	1,900.560	45, 147, 239
		7 66_	6.33	3,460,263	3,603,829	54.03	42.87	4 18	413,638	-17,311	109,000	756,558	865,558 (A)	966, 933 (8)	20,681,943
stiedam	50	8 98	7.51	1,857,426	1,366,847	50 20	46.67	398	667,065	26.581		637,950	637,950	637,950	16,009,569
	51	7.93	5.06	3,367,182	3,729,062	51.55	46 55	3 60	943,188	34,041	245,000	1,491,100	1,736,100	1,776,275	48, 10 , 603
coon Turi Club		14.00	4.00	389,775	419,724	71.49	66.39	10.00	89,810	6,989		778,677	278,677 480,400	278,677 498,745	7,060,355
d Peredise		12.70	5.30	896,639	966, 231	53 57	49.71	6 80	176,508	12.010	33,000	1,527,845	2,390,850 (J)	2,838,095	58, 203, 604
shington Park	37	8.02	7.46	4,671,819	4,960,077	51.17	48.20	3 98	286,042	11,370	853,005 7,500	2,971,677	7,979,172	2,980,362	74,943,221
reclarat Park		9.25	5.75	6,932,247	7,577,482	47 97	37.31	5.17	277,766	14, 374	131,000	1,471,434	1,552,434	1,586,659	29,998,728
		9.00	5.50	2,699,885	2,872,930 452,357	72.38	65.76	6.69	138,857	9,74		197,503	297,503	M1,503	4,443,426
			7.00	3,887,110	4,132,392	46 36	43 61	4.17	568, 790	20,33	530,000	1,272,282	1,802,282	2,279,816 (B)	43, 190, 773
odoine, Canada	-			287,787,871	303,793,938						22,768,630	114,929,741	137,698,371	145,245,614	,685,467,043

Average: S Purses to Track Take 47.85

NOTE: All Track Benuses and H B.P.A. Deductions have been included in Purses figures.

A. Exclusive of pursos paid by the State.

B. Includes pursos paid by the State.

C. Underage of 34,992 to be added to 1969 pursos.

D. Underage of \$51,974 to be added to 1969 pursos.

E. Overage of \$51,974 to be added to 1969 pursos.

E. Overage of \$51,974 to be added to 1969 pursos.

F. Underage of \$10,689 to be added to 1969 pursos.

F. Underage of \$11,640 to be added to 1969 pursos.

H. Underage of \$17,644 to be added to 1969 pursos.

I. Overage of \$66,165 be be addected from 1969 pursos.

J. Overage of \$66,242 to be addected from 1969 pursos.

C. Overage of \$13,460 to be deducted from 1969 pursos.

D. Overage of \$13,401 to be addected from 1969 pursos.

C. Overage of \$13,401 to be deducted from 1969 pursos.

C. Overage of \$13,501 to be deducted from 1969 pursos.

C. Overage of \$1,300 to be deducted from 1969 pursos.

C. Overage of \$1,300 to be deducted from 1969 pursos.

C. Underage of \$1,200 to be deducted from 1969 pursos.

C. Underage of \$1,200 to be deducted from 1969 pursos.

C. Underage of \$1,200 to be deducted from 1969 pursos.

C. Underage of \$1,200 to be added to 1969 pursos.

Q. Underage of \$8,800 to be added to 1989 purses.
R. Underage of \$4,700 to be added to 1989 purses.
S. Underage of \$6,000 to be added to 1989 purses.
T. Overage of \$12,027 to be added to 1989 purses.
T. Overage of \$12,027 to be added to 1989 purses.
V. Underage of \$14,935 to be added to 1989 purses.
W. Overage of \$1,143 to be deducted from 1989 purses.
W. Overage of \$1,143 to be deducted from 1989 purses.
Y. Overage of \$1,143 to be deducted from 1989 purses.
Y. Overage of \$1,123 to be deducted from 1989 purses.
A.D. Underage of \$2,35 to be added to 1989 purses.
A.D. Underage of \$5,376 to be added to 1989 purses.
A.D. Underage of \$5,376 to be added to 1989 purses.
A.D. Underage of \$5,376 to be added to 1989 purses.
A.D. Underage of \$5,385 to be added to 1989 purses.
A.D. Underage of \$5,385 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.
A.D. Overage of \$23,331 to be added to 1989 purses.

DEFENDANTS EXHIBIT K - 1967 HBPA PURSE STATISTICS MORSEMBN'S BENEVOLENT AND PROTECTIVE ASSOCIATION RACING STATISTICS - 1967

Guy Hottal, Executive Secretary and Treasurer

	Days	S Track Take	Track Motival Take in S	Track Take and Breakage	Pursos Paid	% Purses to Track Take	% Pursos to Track Take Incl. Brockage	% Purses to Handia	Deily Average Handle	Derly Average Purses	Srake Roces	Pursos Wideout Stakes	Total Purses	Total Amount Paid Owners	Total Wagered
Se-Ben	- 44	10.11	3,376,034	3,768,400	1,629,300	# 76	43.23	2 48	756,189	37,029 75,661	240,000	1, 389, 300		1,673,750	33, 360, 345 472, 233, 590
reduct	155	12.64	23,611,678 969,528	1,044,033	11,727,600 513,800	52.99	49.21	6.70	187,581	12 233	30,500	63,300	513.800	533,685	7.668.437
ngton Park of Park	34	7.89	1, 184, 563	1,304,566	1,941,523 657,459(D-F)	43.97 35.50	41 16 30 39	3.47		13,149	\$15,000 76,410	629,049	657,459	715,604(E)	12,652,132
in-bore Downe, Canada	36	9.00		932,973	553,800	63.07	59.35	5.67	174,212	9,889	54,600	499, 200	553,800	585, 400 2,594, 275	9,755.925 89,530,822
mire City	2	11.06	\$,324,195 414,105	5, 324, 195	2,521,100(U) 210,200	47.35 50.76	47.35	5.61	1,598,764	7,507	46 7,600	2,018,500		211,330	3,741,057
Westers	30	0.21	3,301,652	3,630,217	1,480,458	43.65	40.78	3.56	1,376,977	49,348	305,000	1, 175, 458	1,480,458	1,512,208	41,309,310
Measurs	31		7,601,611	3,642,805	1,656,625	52.47 57.86	45 47 55.27	2 89		33,808	750,000	3,053,300		4,750,875(P)	152.0 32, 237
Aire Downs	74	7.00	318,415	346,411	163, 214	57.53	52.88	402	189,533	7,633	39, 500	183,214		183,214 763 31 9 E)	15,876,280
an Park Bannets, Canada	50	9.14	1,451,220	2,073,636	700, 264(D) 882, 100	48. 25 45.07	44.50	4.41	317,525 386,318	14,005	37, 500	849,600	88 2, 100	895, 360	21,745,626
e Roce Course	33	8.00	4,720,766	5,003,414	2,376,314(B)	50.75	47.49	4.02		14,836	335,000 51,000	942,987		1,001,007	23,043,283
ennial Roco Trock	54	9.30	1,584,845	1,775,154	993,967(R) 896,300	46.37 56.55	43.68 50.49	6.60	251, 255	16,566	102,000	794,300	876,300	970,680	13,567,819
es Town Roce Course	120	9.25	3,640,194	4,079,794	1,553 885(J) 1,736,890(AA)	42.68 52.21	45 90	1.79	739,977	35,446	365,000	1,553,885	1,553,865	1,553.885	39.353,463
noti Turf Club	50	9.17	1,479,146	1,615,116	719,000(D-L)	46 60	2431	1.44	323.524	14,380	61,000	656,000	719,860	769, 470(E) 175, 200	16, 176, 237
nbus	21	11.22	367,561 1,368,764	1,501,878	174,500 740,11 (D-AC)	47.47	42.11	5.32	155,981 301,708	14,802	3,000	723,711	174,500	797, 311(E)	15.035.424
oby: ood our Pad	35	0.30	4.633.790	4,976,909	2,315,050	53.70	46 98	4 74	971,165	42,001	477,500	1,837,550	2,315,050	2, 405, 840	54,515,185 48,137,516
	67	7.62	3,667,766	4,328,646	2, 236, 900(W) 2, 454, 934(D-T)	61.00	51.72	3.42	8:3,643	29 225	392,500	2.062,434	2,238,900	2.719.874(E)	71.706.086
mandanta, P.R.	153	7.01	5,030,409 0,743,345	5, 406, 384 8, \$24, 307	4,019,428	48.80	45 40	10 34	249,208	29 275 26, 270	397,500 308,000	3,711,428	359,510	4,075,528 559,510	11,653.261
Pot	153	10.00	1, 165, 326	1, 324, 206	559, 510 450, 056(D-X)	48.01	42 24	4.60	110,791	6.522	29,500	420,356	450,056	578,656(E)	7,644,638
reline Dewns prounds	100	9.35	5,264.270	5,771,519	2,453 80 XD-CT	46.61	42.51	4.35	36 2, 8 45	74,538	214,500	2,279,303	2,453,803	2,701,353(€)	50, 28 4, 552 72,041,741
ount Pork	1725	9.36	2,063,339 3,676,980	2, 186, 143 3, 174, 337	934, 57 5(U)	45.79	42.75	4 74	367, 362 270, 487	15,570	62,500 25,000	672,075 L 409, 100	1,434,100	953,040	33.612.976
e Downs	55	12.19	1,195,277	1, 335, 819	669,400	56.00	50 11	6.87	178,215	12,170	27,500	636,900	66°, 400 290, 8 50	680,470 298,250	9,901,855 6,337,237
Pot	28	10.63	673,723	758,225	290,850 1,258,460	43.17 56.59	38.35 53.73	5 09	226, 329 441, 212	10,387	260,000	998, 460	1,258,460	1,318,565	24,707,180
rie, Canada · Siate Park	56	9.00 6.35	6,595,675	6,575,675	2,993, 200(0)	45.38	45 38	2.88	1,854,240	53,450 A,393	683,000 745,000	1,166,000	1,411,000	3, 37 4, 130	43,849,962
Gare Fields	110	12.50	3, 364, 497 2, 883, 606	3,527,591	1,411,000(C)	41.87	42.61	3.21 5.55	913,540	10,774		1, 282, 172	1,282,172	1.262.172	23,068,658
Mounten wood, Canada	60	9.00	2,896,702	3,098,729	1,282,172 1,187,457	44 46	47.61 38.32	3.68	536,426 1,359,730	19,798 47,053	165,000	1,022,457	2,023,300	2,161,300	32, 183, 588
ream Park	43	7.00	393, 253	4,420,721	2,023,300(AF) 172,520	49.43	45 76	3.46	267,439	10,148		172,520	172520	172,520	4 546 478
orne .	35	8.10	3,677,630	3,970,974	1,715,333(M)	46.64	43.74		988.049	49,095 36,709	427,500 290,500	2,609,518	2,960,018	1,796,333 3,180,668(E)	45 394 7 18 78 055 9 17
Pot Pot	79	7.00	5,117,500	5,868.018	2,900,018(D) 2,422,000(AFs)	53 07 47.32	# 42 # 00		1,827,700	60,550	670,000	1,752,000	2,422,000	2,634,300	73,108,007
ees Post	55		11,417,228	11,575,859	4,636,600(H) 1,044,000	68.97	40 05 63 37	274	3,065,826	36,000	1,567,100 235,000	2.067,500 807,000	1,044,000	1,149,765	15, 136, 788
•••	42	10.00	1,513,677	1,601,490	679.352	47.90	42 42	4.78	337,690	16,175	47,500	631,852	679,352	693,947	14,182,789
Roce Course	52	8 00	4,075,461	4,352,762	2, 296, 88 1(Z)	56.35	52.76 42.43	3.42	980,639 789,555	27,010	\$35,000	2.083,832	2,796,881	2,497,706	62,374,906
Downs	79	7.50	4,678,117	\$,030,351	2,133,632 247,125	49.70	41.97	5 40	198,764	10,744	6,000	241,125	247,125	249,145	1,080,408
n Downs	14	13 70	148.040	164.484	64,100	43.29	36 97	3 93	77,172	21,423	12,000	373.619	64.100 385.019	64 450 368 364 781,500	9 6 4 5 78 15 6 9 1 , 2 9 4
2	10	10 00	753,616	1,775,400	385,619 740,385(5)	51.16 47.18	41.70	4.71	538, 56.4 326, 90 i	15.424	55, 255	373.419	740.305 2 969 700	781.500	108 042 501
on Pork	36	6.37	6,682,553	6.882,553	7,969,200(M) 1,573,644(AD)	43,16	39.50	2.74 3.36	704 257	53.021 23,843	725,000 47,500	2, 244, 200	1373.611	1,379,383	46,810,076
en sell Park	43	7,50	3,510,824	3,783,054	1, 286,000	41.15	39 50	4,11	726,748	79,906	15,600	1,178,500 204,900	1,285,000 270,000	1,306,335	31,250,200
m Pork	47	11.00	376,411	419,890	220,500(D)	52.34	\$2.51 49.27	4.18	1,083,958	4,691	491,500	1,868,786	2.360,786	261,045(E) 2,449,286	3, 421, 921 56 30 5 6 49
Roce Course	12	9.00	516, 171	359, 185	2,360,36(AS) 242,016	46.88	43 26	4.21	477.935	20,168 37,583	27,500	214,516	242,016	245.426	5,735,230
nion, Cd.	14	8 82	1,071,375	1, 162, 441	526, 175(AE)	49 11	45 26	4 33	867, 799	4 211	125,000	124,343	126,343	539,620	1,821,683
ii Deme	50	6.27	766.321	765,500	126,343 679,621(D)	32.46	47 79	6 93	50,7 78 279,326	13,592	7,000 17,175	662,496	679,621	720,346(E)	17,636,393
Post	50	9.09	1,603,471	1,757,622	604.013(D)	50 14	45.73	4 55	352,727	16,080	63,750	700, 263 645, 200	708,700	869, 206(E) 776, 700(E)	14,994,897
le une	50	7.50	4,106,771	1,522,477	706 700(D) 2,007 470(D)	46.88	45.71	3.66	1,033,150	37,876	17 5,000	1.032,470	2,007,470	2.241.240(€)	54,756,956
phon Pork	10	9.00	515, 283	552.695	251,938	48 69	45 58	4.40	57 2, 536	25, 193	52,500 57,500	711,934	251,938 269,434	257, 203	6,038,151
ree Col.	55	9.00	543,434	579,066	769, 434 4, 235, 800(A)	40.15	46.52 70.62		2.802.619		57,500 ,353,800	2,882,000	4,235,600 204,317	20 4 317	4,566,419
ose, Cd.	12	9 00	412.778	2004 350	204,317	107.66	102 30	6.46	38 2, 201	85.600	626,500	1.427.900	2,054,400	2,213.825	31 80 848
ough Downs	47	11 00	746,662	815,715	430,380	57 64	>2.76	6,34	144,472	9,157		79 2, 850	430, 380 292,850	430,380 292,850	1,753,5%
e De was	31	12.63	221,639	247, 469 3, 377, 897	292,850 1.560.650(Y)	132 12	118.33	16.69	275,640	13, 282	30,000	1,550.650	1,580,650	1,602,010	32.501.197
od Doms	110	9 00	3,034,110	305, 163	155,400	42 60	39 32	181	337,746	12,950	3,000 253,000	152,400	2 344 244	157,010	64. 422.721
o's Pod	49	8.02	5, 17 2, 286	5,517,073 298,431	177, 200	45.32 64.18	42 49 50 37	5.77	306,739	17,720	7,500	169,700	177.200	177,600	1.067.392
Cel. Downs	65		276,065 2,912,054	5, 291,786	2,011,903(K)	40.95	50 J7 36 01			30,952	72,300	1,737 403		1,472,930	36.471.039
	0	7.82		1,784,620	1,455.050(V) 807.589(D)	51.06	44 87	3 99 4 50	774,915 358,460	16,151	91,600	715,989	807,589	868, 469(E)	17.023.036
te sm	24		1, 190, 157	1,279,713	593,354	49.85	46 36	3.99	619,141	32,964	230,000	1,451,300	1,681,200	593,354	44, 457,646
Pet	4	7.00	3, 112,035	3, 312, 318 1, 108, 126	1,681,300(AH) 515,500	54.02	50.75	6.26	195,860		32,500 ¥41,875	483,000	515,300	324,000	8,225,132 98,445,679
ion Pak	37	8.91	4,685,642	5,011,503	2.467.080(1)	50.00 52.63	49.22	4.22	273,606	11.824	46,000	1,575,205	2.944.24 2	2,984,505 1,950,353	58.675,748
dPort	740	9.25	6,357,505 2,377,001	5,011,503 6,061,527 2,537,398	1,366,775	46.34 57.49	42.17 50.86	3.17	256,418 340,972		46,000 121,500 370,000	7,878,748 1,745,775 1,345,564		,404,145	26, 611, 126
Conode Recing Ass'n.	103	9.00	3,893,003	4,169,416	1,935,564	M.M	\$3,84 46,42	10	340,972						
OTALS			0.330,313	7, 407,770	26,939,654						347,115		126,939,654 133.	420,696	427,705,893
Iverage: % Purses to Treck	74.	•	11-4 al E	20 124 to be od	led to 1968 purses. Ided to 1968 purses. Ided to 1968 purses.			\$. T.	Overage of \$1	4,039 to be dedu 1,250 to be dedu 7,945 to be edde	ected from 196 ed to 1966 pur	6 purses.			
4.76		0.	Esclusive of	pur see pand by !	the Stote.			V.	Overme of \$6.	969 to be deduc	ted from 1968	pur 101.			
			Includes purs	os paid by the S	ucted from 1968 ours	••			Overses of \$7	500 to be deduc	ted tem 1968	purses.			
Track Benuses and H.B.P		Ġ.		11 344 to be ad	ded to 1966 purses.			Y. 1	Overege of \$16	7,430 to be dedu 19,830 to be ded	weled from 19	of purses.			
ductions have been include	d in	H.	Underage of \$	12,500 to be ed	eted from 1966 purses			7	Ourses of \$14	IN ALL IN he ded	wated from IP	A purses.			
ree ligares.		1.			4-4 to 1906 persos.			AR.	Linderses of \$7	15.915 to be ded	ed to 1968 pv				
		K.	Underage of \$	28,307 to be odd	ad to 1966 purses.			AC I	Lindwood of \$1	4 141 to be odd	ed to 1946 put	100			•
								AF I	Indexense of \$2	0.802 to be add	ed to 1956 put	808.			
		44	Underse of 6	79,782 to be en	ded to 1965 person.			4.8	instruments of 56	2,700 to be added.	ed to 1968 out	001.			
								ALL.	Umburuya at 60 Umburuya at 63	all to be made	nd to 1968 non	926-			
			Gverens et 24,	The se se desire	etad from Hide purnos										

- A. Underage of \$5,701 to be added to 1968 purses.

 8. Underage of \$70,336 to be added to 1968 purses.

 C. Underage of \$7,336 to be be added to 1968 purses.

 D. Exclusive of purses paid by the State.

 E. Includes purses paid by the State.

 F. Overage of \$17,000 to be deducted from 1968 purses.

 F. Underage of \$11,204 to be added to 1968 purses.

 N. Underage of \$17,000 to be deducted from 1968 purses.

 I. Underage of \$1,200 to be added to 1968 purses.

 I. Underage of \$2,730 to be added to 1968 purses.

 K. Underage of \$2,730 to be added to 1968 purses.

 K. Underage of \$0,700 to be added to 1968 purses.

 M. Underage of \$2,700 to be added to 1968 purses.

 M. Underage of \$7,782 to be added to 1968 purses.

 M. Underage of \$1,700 to be added to 1968 purses.

 M. Underage of \$1,700 to be added to 1968 purses.

 M. Underage of \$1,700 to be added to 1968 purses.

 M. Underage of \$1,700 to be added to 1968 purses.

 M. Underage of \$1,700 to be added to 1968 purses.

- Ct. Under age of \$19.700 to be added to 1965 per tot.

 P. Includes \$25,000 contributed by United Photo.

 Course of \$9,957 to be delivered from 1966 pureos.

DEFENDANTS' EXHIBIT M - 1965 HBPA PURSE STATISTICS MORSEMEN'S DEMETOLENT AND PROTECTIVE ASSOCIATION RACING STATISTICS - 1966 Guy Herrel, Enceptive Secretary and Treasurer

585a

	Days	Trock Take	Track Mutual Take in S	Track Take and Breakage	Porter Paid	% Pursos to Trock Take	% Pursos to Track Take Incl. Breakag	Averege	Duth Average Purse	-	Pura Witho Stake	ut lotal	Total Amount Paid Owners	Total Wagara
Ab-Sar-Ben Agustust	159	5.00	3.189.023 24,533,216	3,561,291 25,725,789	1,459,050	45.73	40.96	749,767	34,73	217,50			1, 489, 185	31,490,2
Arisona Downs	41	10.06	777, 281	868,776	9,842,500	60.40	36.25	1,085,039		2,735,00				40,664,3
Arlington Park	1 36	7.75	4, 208,807	4,535,237	1,688,900	40.12	37.23	180, 423	11,45	2 24,000 3 420,000	445.9	469,540	477, 190	7,725,3
Asset Port	44	9.17	1,111,372	1, 183, 115	511,860(H)	46.05	43.26	275. 275	46.91	1 4000	1,268,9			\$4,307, K
Assinibeia Dewns, Canada	42		756,902	804,344	411,575	54.37	51.16	275, 275 200, 236	11.63	1 16 X	365,5	75 411,575	432,679	12,112,1
Atlantic City Atokad Park	- 8	6.00	4,790,860	4,790,860	2,142,373(P)	44.71	44.71	1,425,604	36.25		1,687,3	73 2,142,373	2,205,073	79,633,6
Belmorel	30	11.06	2,953,004	466.681	226,200	55.19	48.46	115.576			223.7	00 226, 200	226,960	2,698,4
Bay Mandows			2.872.671	3,169,114	1,371,900	46.45	43.28	1,270,109	45.73			00 1,371,900	1,413,325	36, 103, 26
Belmest Park	90		7.168.085	7.510.4D	1,232,100(AC) 3,425,100(T)	47.78	40.78	2.867.233					1.253.900	36,752.4
Berkshire Downs	26	7.00	336, 293	369,649	176,900	52.60	45.60	200 174	68.507	1.255.000	2.170.1	00 176,900	1.851.695(U)	143.361.67
Baylah Park	44		1, 144, 505	1,221,229	519,435	45.38	42.53	200,174	7,370	23,000	496,4	35 519,435	176,900 523,620	12,687,95
Blue Bonnets, Canada	42		1,505,232	1,589,581	678,300	41.74	39.32	375,895	14,950	15,000	613,3	678,300	635,800	15,787.54
Rowie Race Course Cahabia Downs	1 52	800	4.786.989	5 114 365	2.512.7.19(F)	52.49	3 .13	1.150.718	48, 321	233 500	2.179.2		2 558 239	\$2.837.30
Contonnial Race Track	60	9.46	2.079.473	1,015,110	847.920	40.77	30.77	366, 168	14.12	33.500	814.4	0 847.970	851.930	21,779.03
Charles Town	118	10.00	3,203,321	3,390,758	465,950 1,564,137(AD)	51.58 48.62	43.90	275.830 246.357	11,648	37,500	1,564,1	1 1,364,137	1,564,137	9.033.2
Churchill Downs	42		2,999,558	3,447,523	1,496,100(W)	49 87	43.39	803,639	35.431	346.004	1,364,17	1,564,137		34,632,67
Cincinnati Turt Club	44		1, 141,997	1, 219, 330	549, 100(J)	48.08	45.03	203,503	35.621 12,479	24,500	1,151,10		1.607.665	33,752,83
Calumbus, Nob.	21	11.28	352,469	397, 196 1, 377, 771	174 375	49.47	43.90	148,794	0,303		524.60 171,37		557,900 175,775	3,174,69
Cronwood			1, 297, 540		610,000(Z)	47.01	44.27	326, 168 929, 234	13.863	3,000	581.31		614.265	14.351.39
Delaware Park			4, 344, 169	4,636,077	2,126,450	49.94	45.86	979,734	39,663	447,000	1,679,45	0 2,126,450	2 218, 275	51,107,88
Del Mor Detroit Roce Course		7.66	4,933,812	3,592,126	1,421,400(AE)	40.88	39.36	1,074,126			1,069,40	0 1,421,400	1,528,405	45, 113, 30
iles Pors		10.00	999,703	5,311,662	2,614,449 452,425	53.00 45.25	49.72	839,063	31,124	222,500	2.301.94		2.844.799	70.483.04
er Grounds		9.14	3.904.581	4,407,532	2.096.400	52.69	47.56	263.079 479.905	23,555	155,000	452.42		452 425	9,297.03
eimeunt Park	60		1,945,137	2,058,035	2.096,400 792,500	40.74	28.50	336,720			1.941.40		2.203.830(X)	42.711.60
inger Lakes	125	9.20	2.862.347	2.956.433	1.319.850	46.11	44.64	248,835	13,708	10,000 5,000	782.500	792.500	1,327,335	20, 201, 22
Jarida Dawns		12.39	1.028.008	1.073,353	553,462 287,160	53.83	51.56	153.581	10,249	20,000	533,46		566.062	31, 104, 38 8, 293, 389
anner Park	177	10.83	521,850	588,208	267, 160	55.02	48 81	178,463	10,635	12,000	275, 160	287, 160	295, 360	4.818.50
ert Erie, Conode	64	5.00	6,061,993	3.009.131	1,409,600 2,589,574(V)	90.30	4.84	457.895	20,729	210.000	1, 199,600	1,409,600	1,466,260	31,136,244
erden State Park alden Gate Freids			2,243,615		1,381,122	42.72	42.72	1,838,310	46,242	680,000	1,909,574		2,979,009	102,945,334
ren Mountain Park			2,632,835		1,221,800	46.40	44.22	876.075	70,773	22.525	1.146.597		1.418.747	47.051.646
eenweed Conede		9.00	2,568,283		1,094,400	42.61	39.70	186,894	10.267	144 444	1.221.600		1,221,800	22.240.460
History			3,950,771		1,940, 100(F)	49.10	45.35	1,312,549	45,110	180,000	1,495,100	1,094,400	1.132.200	78.536.486
merstawn, Md.		8.60	401,817	435, 348	216, 261(0)	53.82	49.67	259.370	17,014	1	214 361	1,940,100	2.019.615	56,439,593
gwingrng		8.20	3,395,049		1,590,800	46.85	44.12	1,182,007	45,451	367,500	216.261 1,206,300	1,390,800	1,676,500	41,370,273
uel Perk			5,583,977		2,918,920	52.27	48 62	942,003	34,749	222,500	2,696,470	2,916,920	3,156,595(X)	79,128,253
alesh Park			5,303,968	5,556,108	2,344,000(G)	44.19	42.18	1,894,274	58,600	655,000	1,689,000	2,344,000	2,551,100	75,770,975
offerson Downs			1, 185, 332	1,305,273	4, 49 7, 46 5(X) 54 9, 638(A)	40.64	40.20	2.946,084	11,477	1,46,100	2,996,365		4,756,015	162,144,665
ccelend			201,317	1,359,479	917,750	76.39	67.55	500,549	11,339	7,500	567, 136	589,638	617,755(X)	10,272,701
Plenie			.513.745	1,690,894	706 200		41.54	270 311	12,610	250,000	667,750	917,750	1.015,160	12.013.177
wrei Roce Course		.00	244,745	4,533,037	706, 200 2,336,696(B)	46.65 35.04	31.54	770,311 1,020,371	44,936	40,500 497,560	665,700	706, 200	715,375	15,137,455
nceln Downs			,752,592		1,930,387	40.61	37.02	772,413	23,541		1,930,367	1,930,387	1,930,387	63,367,906
nealn, Nob		0.80	534.975	103,050	244.200	45.64	10.49	215.206	1.561	4.000	1,930,367	244.200	247,330	4,949,756
dison. Neb.		90	657,841	715,520	62,900 330,970	67.00 50.31	61.03	60,964	5,710		62,900	62,900	62,700	670,611
ribere. Md.			569,398	1,773,695	737,600(C)	46.99	46.25	320, 265	15,053	10,900 30,000	320,970	330,970	333,335	8,326,307
nmouth Park			096,109		2,553,074(R)	41.88	41.88	1,847,366	45,591	600,000	1,953,074	737,600	775,630	15,693,984
rresponsent Perk			161,529		405,869	44.46	41.20	654,651	21,966	47,500	1,350,369	1,405,869	2,762,784	103,565,627 42,153,718
klown Park	41 10		756,097	2,671,369	147,000	41.61	39 94	672,219	27,975	85,000	1,062,000	1 147 000	1,160,600	27 560 979
is Jefferson			388,637	437,074	236,290 260,167 (AB)	60.79	54.06	98,115	6,563	11,500	224,790	236, 290	276,635(X)	27,560,979 3,532,156
lice Rece Course			259,714	4,566,057 2	260, 167 (AB)	53.05	49.49	1,023,969	15,594	463,500	1,796,667	2.260,187 187,131	2.507.917	\$3.246.436
esenten, Cel.			402,865	435,200	187,131	46 45	42.90	373,023		16,500	170,631	187,131	190, 191	4,476,287
nens. Cel.			051,922 273,210	791,685	145,888	53.39	43 21	849,931	34,688	9,800	475,840	465,640	499, 290	11,899,03/
scott Downs away Park	44 0	10 1	109,903	1, 180, 104	511,837(AA)	46.11	43.37	274,297	5.030		145.888 511,839	145,886	145.886	1.968.276
dell Park	4 8	92 1		1,647,779	762,856(Z)	49.39	46.79	373,289	17,337	91,000	671,856	762,856	511,839 777,136	17,304,744
er Downs	4 9	09 1	207,463	1, 289, 190	581, 100(H)	48.12	45 07	301,864	11,706	41,000	540, 100	561,100	593,415	13.282.027
kinghan Park			829,948		732, 203(Q.M)	45.22	41.78	1,013,323	32,077	100,000(0)	1,632,203	1,732,203	1,968,968(1)	54,714,058
remente, Cel.			463,351		211,065(Y)	45.55	42.81	514,834	21,106	42,500	168,565	211,065	215,810	5,148,347
e Anite Park					264,877(D)	40.27		2.814.568	77.543	1,290,200	2,974,677	4,264,877		54,802,350
***		00 1,	725,089			98.30		1, 197, 977	70,663	627,500	1,068,400	1,695,900	1,858,875	28,751,492
perevah Downs	69 10					59.36	53.86	136,070	8,077	77	557,331	557, 331	557, 331	9,388,887
	10 9.			334,382		46.28	41.06	323,865	13,866	17,300	1,660,338	1,677,838	1,690,413	39, 187, 732
	49 8			5,076,591 2		46.59	46.07	368, 465	15,406	184 844	154,066	154,066	154,066	3,684,650
	66 7						41.72	928, 154	43,420 20,657	195,000	1,932,600	2,127,600	2.151,175	56.470.530
ren	47 7	16 27	15.097			-		734,072		750,000	1,667,788	1,917,768		61,750,728
ledama	47 7.1	0 1	18.004				42.63	387, 491	26,000 15,481	71,500	1.052.400	1,272,400		34.501.368
ing.	24 8.	3 10	73.536				42.22		21,930	/	609,664	681,164	695.814	17.049.622
	43 7.0			3.011, 155			45 33		32,558	225 000	526, 328 1, 175,000	526, 326 1,400,000	526.328	13.191.406
	41 10.0					STATE OF THE PERSON NAMED IN	53 89	197,551	11,300	275,000 37,000	438,573	475,573		7.894.619
ia. Cel.	10 9.0	0 2	U1.181				4.59		13, 175	5,000	126,755	131,755		3,124,241
ington Perk	37 8.0	7 4.3	79,592						65,91	1,070,000	1, 356, 150	2, 426, 150		4.244.747
ford Ports	743	5 5,1	89,230	5,742,892 2,4	146,438		42.59		10,047	16,000	2,430,436	2,446,438		6,099,808
om Canada Rasing Ass's.	77 7.0	0 1.8	37,367	1,967,783	157,633		53.74		11,372	93,000	964,633	1,057,633	090 211 2	0 437 364
sine, Conada	76 1.0	0 3,7	97,953	070,346			4.27		24,781	335,660	1,346,400		061,705	7,199,479
		THE RESERVE TO SERVE THE PARTY OF THE PARTY				The Party of the P	THE RESERVE OF THE PERSON NAMED IN	The second name of the second		THE RESERVE AND ADDRESS OF	The second name of the second	THE RESERVE AND ADDRESS OF THE PARTY NAMED IN		-

por & Purson to Trech Take

All Track Benuses and H.B.P.A. Deductions have been included in Purse Agares.

A. Esclusive of State Brad Purses.

8. Underage of \$13,360 to be added to 1966 Purses.

C. Overage of \$13,502 to be added to 1966 Purses.

C. Overage of \$15,002 to be added to 1966 Purses.

E. Underage of \$20,000 to be added to 1966 Purses.

F. Underage of \$20,000 to be added to 1966 Purses.

G. Underage of \$27,720 to be added to 1966 Purses.

H. Overage of \$1,720 to be added to 1966 Purses.

H. Overage of \$1,720 to be added to 1966 Purses.

I. includes \$200,000 contributed by State of How Hangel

J. Overage of \$942 to be deducted from 1966 Purses.

K. Underage of \$12,500 to be added to 1966 pursue.
L. Underage of \$320 to be deducted from 1966 Pursue.
M. Underage of \$3,666 to be added to 1966 Pursue.
M. Underage of \$12,601 to be added to 1966 Pursue.
O. Overage of \$220,601 to be deducted from 1966 Pursue.
O. Overage of \$220,601 to be deducted from 1966 Pursue.
O. Lass \$200,000 contributed by State of New Hampshi.
R. Overage of \$13,677 to be deducted from 1966 Pursue.
S. Overage of \$15,600 to be deducted from 1966 Pursue.
T. Enclosive of \$25,600 contributed by United Hamte.

U. Includes \$25,000 contributed by United Hunts.
V. Overage of \$19,127 to be deducted from 1966 Person.
W. Underage of \$3,572 to be added to 1966 Person.
X. Includes State Brad Purses Paid by the State.
Y. Underage of \$1,000 to be added to 1966 Purses.
Z. Underage of \$13,700 to be added to 1966 Purses.
AB. Underage of \$13,700 to be added to 1966 Purses.
AB. Underage of \$6,073 to be added to 1966 Purses.
AC. Underage of \$60,719 to be added to 1966 Purses.
AC. Underage of \$20,719 to be added to 1966 Purses.
AD. Overage of \$120,813 to be deducted from 1966 Purses.
AE. Underage of \$7,500 to be added to 1966 Purses.

DEFENDANTS' EXHIBIT N -- PERCENTAGE STAKES TO TOTAL PURSES - 20 MAJOR
TRACKS, 1965-1972 (8 pages) 586a

DEFENDANT

1974

 \geq

20 U.S. Race Tracks Having the Highest Percentage of Total Monies Paid to Horsemen Allocated to Stake Races

	Race Tracks and Location	Total Monies Paid to Horsemen	Stake Races	Percent of Stakes to Total Monies
1:	Hollywood Park, (Cal.)	0,63	,620,0	3.6
2.	Santa Anita Park, (Cal.)	59,12	367,9	1.1
3.	Washington Park, (Ill.)	820,69	35,00	9.4
4.	Oak Tree, (Cal.)	90,50	15,00	8.3
5.	Pomona, (Cal.)	33,78	75,00	7.6
.9	Gulfstream Park, (Fla.)	,324,30	20,00	4.7
7.	Belmont, (N.Y.)	,332,60	95,00	4.5
8	Hialeah Park, (Fla.)	,165,00	65,00	4.2
9.	Saratoga, (N.Y.)	,459,50	85,00	3.8
10.	Keeneland, (Ky.)	1,311,250	300,000	22.9%
11.	Atlantic City, (N.J.)	,079,27	38,20	0.7
12.	Del Mar, (Cal.)	,819,49	70,00	0.28
13.	Monmouth Park, (N.J.)	,035,47	10,00	0.1%
14.	Garden State Park, (N.J.)	,584,01	17,50	0.0
15.	Delaware Park, (Del.)	,168,72	17,50	9.58
16.	Golden Gate Fields, (Cal.)	,767,25	25,00	9.0
17.	Aqueduct, (N.Y.)	,667,40	00,00	8.0
18.	Ak-Sar-Ben, (Neb.)	,854,20	5,00	8.0
19.	Bay Meadows, (Cal.)	,573,54	60,00	7.9
20.	Churchill Downs, (Ky.)	,512,52	00'0	

Sources: 1972 RACING STATISTICS, Major and Minor Tracks, published by HBFA

1971

22 U.S. Race Tracks Having the Highest Percentage of Total Monies Paid to Horsemen Allocated to Stake Races

Percent of Stakes to Total Monies		5	0	29.68			٠.	•	•		•	•	•	•	•	-	٠.	8	8	4	1	9	
Stake Races	0	2,725,000	465	7	30	5	0	5	4,	5	5	0	3	2	2	L	,		3			95,0	5,0
Total Monies Paid to Horsemen	716.7	6,844,494	,569,0	478,3	055,0	423,4	83/4	7077	157 0	71/07	429,6	298,8	852,4	686'6	260,10	127,42	271,35	765.49	385.01	537.33	540.57	100	00,00
Race Tracks and Location	Hollywood Park, (Cal.)	Oak Tree (Cal.)	Saratoga. (N.V.)	Hialeah Park, (Fla.)	Belmont Park, (N.Y.)	Hawthorne, (Ill.)	Gulfstream Park (Fla.)	'n	heeneland, (Ky.)	Delaware Park, (Del.)	Churchill Downs. (Ky)	Atlantic City, (N. T)	Garden State Park (N. T.)	Monmouth Park (N. T.)	Arlington Park (111)	Ak-Sar-Ben (Neh)	Washington Dani	Bay Meadown (III.)	Golden Cate T.	Domes (Cal.)	Actiona, (Cal.)	Addeduct, (N.Y.)	
	7:	3	4.	2.							17.	13.	14.	.5	.6.	7.	8	6	0	-	2	;	

Sources: 1971 RACING STATISTICS, Major and Minor Tracks, published by HBPA

1970

20 U.S. Race Tracks Having the Highest Percentage of Total Monies Paid to Horsemen Allocated to Stake Races

Percent of Stakes to Total Monies	5.0	9	10	30.38	9.4	9.2	6.3	5.3	3.5	1.4	3.3	1.4	1.2	0.9	0.8	0.6	8.9	8.8	9.	.6	
Stake Races	1,385,000	160	180.	2,090,000	89,50	65,	00,00	90,00	10,00	37,50	415,000	05,50	45,00	45,00	35,	H	59,500	2	0	585,750	
Total Monies Paid to Horsemen	2,03	07,42	3	96,50	,323,94	8,60	,044,00	,331,26	,747,27	42,98	.7	0,50	,095,93	,174,50	1,1	3,20	,41	2,048,150	,312,80	3,142,950	
Race Tracks and Location	Santa Anita Park, (Cal.)	Hollywood Park, (Cal.)	Pomona, (Cal.)	Belmont Park, (N.Y.)	Oak Tree, (Cal.)	Saratoga, (N.Y.)	Hialeah Park, (Fla.)	Washington Park, (Ill.)	Churchill Downs, (Ky.)	Hawthorne, (Ill.)	Arlington Park, (Ill.)	Pimlico Race Course, (Md.)	Del Mar, (Cal.)	Keeneland, (Ky.)	Gulf Stream Park, (Fla.)	Monmouth Park, (N.J.)	Sacramento, (Cal.)	Ak-Sar-Ben, (Neb.)	Aqueduct, (N.Y.)	Atlantic City, (N.J.)	
	1:	2.	3.	4.	5.	. 9	7.	8	6	10.	11:	12.	13.	14.	15.	16.	17.	18.	19.	20.	

Sources: 1970 RACING STATISTICS, Major and Minor Tracks, published by HBPA

20 U.S. Race Tracks Having the Highest Percentage of Total Purses Paid Allocated to Stake Races

f Stak	to lotal Purses	1	•	7	1.	-			•		7.1	7		900	.08	5.48	7		•	•		9.	.2	4	
Stake Races		6.40	72 5	200	415,00	26,50	,925,	48,75	02 69	200	19,65	55,0	20,00	95.00		0,0	15,0	~	15.0	5	7110	80,00	325,00	00,09	545,000
Ø	ı										4														
Total Purses		56,5	,410,6	312 2	1000	7000	300,20	1135,2	30,6	8 711.	760	0,00	041,0	,862,7	.835.7	200	02,00	20,2	, 25	809,29	22 00	707	20,00	2 600 500	7616601
Race Tracks and Location	Washington Dadi		Oct Twood Fark, (Cal.)	odk Tree, (Cal.)	Santa Anita Park, (Cal.)	Belmont Park, (N V)	Saratoga. (N V	Pomona (Ca)	אדן הייות (כמדי)	Atlantic City, (N.J.)	Garden State Park. (N.T.)	. Hialeah Park (Fla)	Arlington Bark (11)	Monacouth Project (111.)	· Monmouth Park, (N.J.)	. Hawthorne, (Ill.)	. Del Mar. (Cal)	Keeneland (v.)	Churchill Pour	· chutchill Downs, (Ky.)	. Gulf Stream Park, (Fla.)	· Eagle Downs, (Pa.)	. Aqueduct, (N. Y.)	· Pimlico Race Course (Md)	(pu)
	-	10	10	1	4	5	9	7	0	0	6	10	11	12	7	13	14	15	16	1 ,	17	18	19	20	

Sources: 1969 RACING STATISTICS, Major and Minor Tracks, published by HBPA

1968

20 U.S. Race Tracks Having the Highest Percentage of Total Purses Paid Allocated to Stake Races

Stakes Purses												59	1:	Э								•			
Percent of to Total	,	:	2	7.7	7	6				5.0	4	2			7.5	2.1			9.1	1:1	2.0		10.76	•	•
Stakes Races	863.005	833 90	100	1	, 90	-	0.99	2 4 4	0100	ထ	4		22	000	0	~	~		100	0,0		2.5	522.7	64.0	
Total Purses	,390,85	8	122.59	2000	1210,3	60'	, 616,350	0.6	200	77,81	0	2	S	152 75	2110	1,281,68	,276,66	03.03	000	1082,10	,558,92	49,60		,853,50	
Race Tracks and Location		2. Santa Anita Park, (Cal.)	3. Hollywood Park, (Cal.)	Belmont Park (N V)	(I W TO THE TOTAL OF THE TOTAL	Saratoga, N.Y.)	Pomona, (Cal.)	7. Hialeah Park, (Fla.)	Churchill Downs /v. 1	Harrist Downs, (ny.)		.U. Arlington Park, (Ill.)	.1. Del Mar, (Cal.)	.2. Keeneland, (Kv.)	3 Gardon State Dank / 11	Salden State Fair, (N.J.)	4. Laurel Race Course, (Md.)	.5. Monmouth Park, (N.J.)	6. Gulfstream Park (Fla)	7 believed (Till)	balmoral, (III.)	8. Aqueduct, (N.Y.)	9. Pimlico Race Course, (Md.)	0. Ak-Sar-Ben, (Neb.)	

Sources: 1968 RACING STATISTICS, Major and Minor Tracks, published by HBPA

20 U.S. Race Tracks Having the Highest Percentage of Total Purses Paid Allocated to Stake Races

Percent of Stakes to Total Purses	α		3.	2.	0	30.5%			•		5	4.4	α.		2.	7.7	7.7	9 . 5	S.		•	•		20.68
Stakes Races	.4	000	111	53,	4	626,500	-	15.00	70 00	0101	S	N	N	35.0	1	0,00	∞	2,650,000	235,000	5.		-	491,500	305,000
Total Purses	2,467,080	63		, 235,8	4,398,300	S	22,00	,941,52	38.90	716 77	10,33	1 96	26,17	.296.88	023 30	2 .	1393,2	27,60	44,00	269,434	89	20000	000	
Race Tracks and Location	Washington Park, (Ill.)	Hollywood Park, (Cal.)	Santa Anita Dark	Bolmont Dank (Cale)	BEIMONG FAIK, (N.Y.)	Saratoga, (N.Y.)	Hidlean Park, (Fla.)	Arlington Park, (III.)	Del Mar, (Cal.)	Hawthorne, (T11)	Monmonth Bark (N. T.)	Domond (A.D.)	romona, (cal.)	Laurel Race Course, (Md.)	Gulfstream Park. (Fla.)	Garden State Dark (N. T.)	Achednot (N V)	-		san Mateo, (Cal.)	Churchill Downs, (Ky.)	Pimlico Race Course (MA)	Ralmoral (T) 1	carmorary (iii.)
														. 7	3.					•	3.		_	

Sources: 1967 RACING STATISTICS, Major and Minor Tracks, published by HBPA

Stakes											59	93	а							
Percent of to Total P	7.2	6.9	4.0	2.4	1.8	9.0	7.4	7.4	7.2	6.2	5.7	5.4	4.7	4.5	2.5	1.8	1.3	1.2	20.98	0.5
Stake Races	5,00	10,75	7,80	65,00	65,4	60,00	93,75	80,00	25,00	95,00	85,00	95,	40,	07,	0,0	43,	45,00	67,50	516,500	2,50
Total Purses	,511,20	,654,35	,439,92	,358,62	1,90	,928,43	,822,95	,484,50	59,20	48,19	,499,88	,340,44	94,49	,663,62	,597,70	18,87	,091,40	,207,95	,467,	07,23
Race Tracks and Location	Belmont Park, (N.Y.)	Saratoga, (N.Y.)	Hollywood Park (Cal.)	Washington Park, (Ill.)	Santa Anita Park, (Cal.)	Arlington Park, (Ill.)	Aqueduct, (N.Y.)	Hialeah Park, (Fla.)	Pomona, (Cal.)	Garden State Park, (N.J.)	Del Mar, (Cal.)	Laurel Race Course (Md.)	Monmouth Park, (N.J.)	Hawthorne, (Ill.)		Keeneland, (Ky.)	Gulfstream Park, (Fla.)	Delaware Park, (Del.)	Pimlico Race Course (Md.)	Sacramento, (Cal.)
	;	2.	3.	4.	5.	. 9	7.		6	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.	20.

Sources: 1966 RACING STATISTICS, Major and Minor Tracks, published by HBPA

1965

20 U.S. Race Tracks Having the Highest Percentage of Total Purses Paid Allocated to Stake Races

cent of	to Total Purses		44.19		:	9	3	0	7	1		: _	•	•	•		-		• '	•		0	.5		8
Stake Dage	Save vaces	•	0	627,500	.255	1001	710	-	655,0	32,0	20,0	340,000	82.5		000,000	32,0	12,0	4.	O	2 4	0000	0	63,5	42,	0
Total Purses		1 764	202	0010	1472, 10	,48	64 97	344	9-842 500	0009	2000	717	30,8	5	1.40	01 96	040	010000	1330,69	,142,37	.126.45	0	211.06	1,381,122	
Race Tracks and Location	Wachington	C	Saratoga, (N.Y.)	Belmont, (N.Y.)	T	Canta haite n (Cal.)	Santa Anita Park, (Cal.)	Hilaleah Park, (Fla.)	Aqueduct, (N.Y.)	Arlington Park, (Ill.)	-	Hawthorne, (III.)	7.4	Del May (C.)	Cer Mar, (Cal.)	Churchill Downs, (Ky.)	Gulfstream, (Fla.)	Laurel Race Course. (Md)	Atlantic City, (N. T.)		Delaware Fark, (Del.)	Fimilico Race Course, (Md.)	Sacramento, (Cal.)	G iden Gate Fields, (Cal.)	
	-		;	,	4.	5		• •	: .	· ·	6	10.	11:	12.	12	::		12.	16.	17	10		200	.02	

Sources: 1965 RACING STATISTICS, Major and Minor Tracks, published by HBPA

S. D. OF N. Y.

0

ONLY COPY AVAILABLE

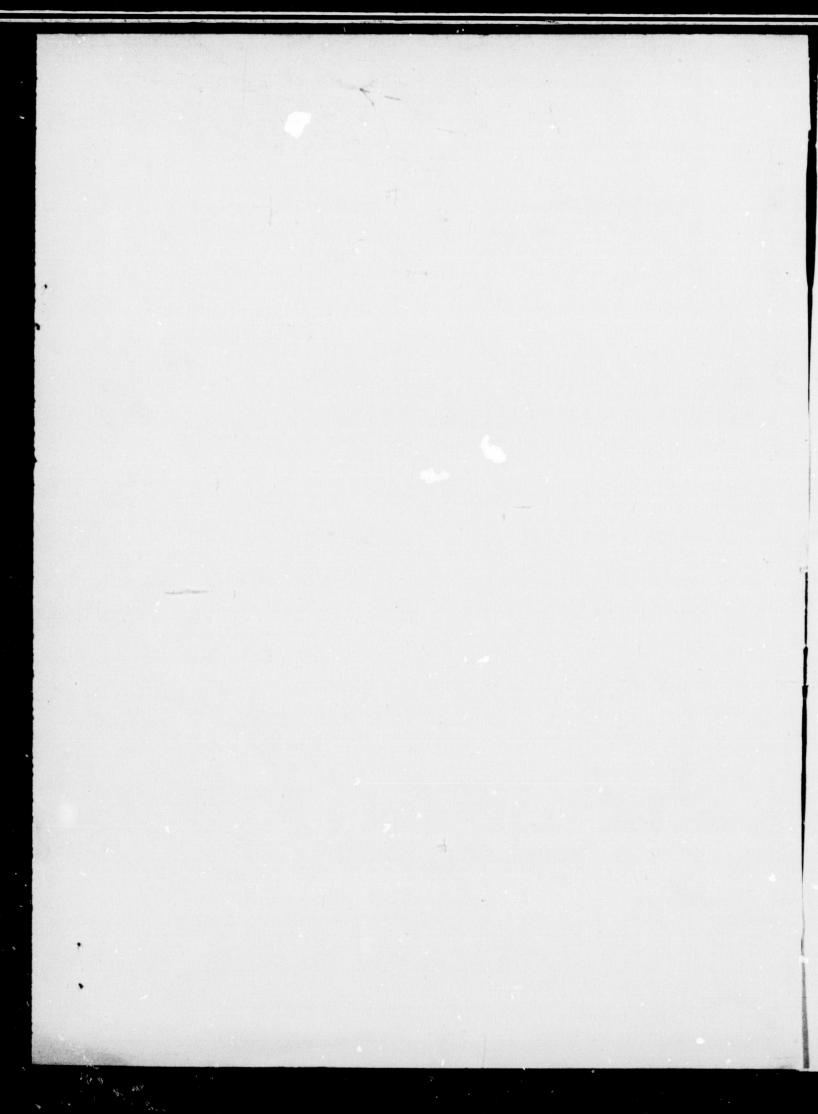
ONLY COPY AVAILABLE

NYRA PERCENTAGE OF PURSES PAID BY RACETRACKS LOCATED IN THE UNITED STATES AND ON THE EASTERN SEABOARD

33	100 mm	103,005,-33	-1	7 : 50 TE	11.74.15	
1966	14,968,500			14.958.530	53.823.936	27.83
1961	19,109,530 18,183,330	157,437,962 136,575,297 125,536,338 115,736,370 109,724,992	15.75	18,180,300	57,785,948	31.5,5
1968	19,109,900	125,536,333	15.2%	005,601,61	61,447,010	31.15
**1969	19,125,710	136,575,297	14.0%	19,125,710	68,840,266	27.8%
1970	20,487,900	157,437,962	13.0%	22,487,900	86,082,108	23.8%
1971	22,660,300	177,288,042	12.8%	22,650,300	94,243,610	24.0%
*1972	21,459,500	186,228,793	11.5%	21,459,500	92,652,515	23.2%
	EL NUEA	T. n.s.	Fire	E MEN THE	EASTERN* -	¥.

Tecluses tracks located within Delaware, Florida, Maine, Maryland, Massachusetts, and Herbshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia

1972-1970 Figures for "Total Monles Paid to Horsemen" p369-1965 Figures for "Total Purses Paid"



US COURT OF APPEALS SECOND CIRCUIT

Indez No.

KARLINSKY, et al,

Plaintiff-Appellants,

against

Affidavit of Personal Service

NEW YORK RACING ASS., et al,

Defendants-Appellees.

STATE OF NEW YORK, COUNTY OF NEW YORK

...

I, Victor Ortega,

being duly suom.

deposes and says that deponent is not a party to the action, is over 18 years of age and resides at

1027 Avenue St. John, Bronx, New York

That on the 20th day of December

1974 & 80 Pine Street, New York

deponent served the annexed

appendix

upon

Cahill, Gordon, Sonnett, Reindel & Ohe. Esqs.

personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Attorney(8)

herein,

Swom to before me, this 20th day of December

19 74

Print name beseath signal

VICTOR ORTEGA

MOTARY PUBLIC, STATE OF MEW YORK

OMALIFIED IN MEN YORK

COMMISSION EXPIRES "ARCH 30, 1975